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HANDBOOK

OF THE

National Conference of Commissioners

ON

Uniform State Laws

AND

Proceedings

OF THE

Thirty-fifth Annual Meeting

DETROIT, MICHIGAN

Aug. 25-31

1925

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PART I

ORIGIN, NATURE AND SCOPE OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The National Conference of Commissioners on Uniform State Laws is composed of Commissioners from each of the states, the District of Columbia, Alaska, Hawaii, Porto Rico and the Philippine Islands. In thirty-three of these jurisdictions the Commissioners are appointed by the chief executive acting under express legislative authority. In the other jurisdictions the appointments are made by general executive authority. There are usually three representatives from each jurisdiction. The term of appointment varies, but three years is the usual period. The Commissioners are chosen from the legal profession, being lawyers and judges of standing and experience, and teachers of law in some of the leading law schools. They serve without compensation, and in most instances pay their own expenses. They are united in a permanent organization, under a constitution and by-laws, and annually elect a president, a vice-president, a secretary, and a treasurer. The Commissioners meet in Annual Conference at the same place as the American Bar Association, usually for four or five days immediately preceding the meeting of that Association. The funds necessary for carrying on the work of the National Conference are derived from contributions from some of the states, from appropriations made by the American Bar Association, and contributions from various state bar associations. The record of the activities of the National Conference, the reports of its committees, and its approved acts are printed in the Annual Proceedings. The approved acts, sometimes with annotations, are also printed in separate pamphlet form.

The origin of the National Conference is, briefly, this: In 1889 the American Bar Association appointed a special committee on Uniform State Laws. In 1890 the Legislature of the State of New York adopted an act authorizing the appointment of "com-

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missioners for the promotion of uniformity of legislation in the United States," whose duty it was to examine certain subjects of national importance that seem to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially whether it would be advisable for the state of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states. In the same year, a special committee of the American Bar Association, after reciting the action of New York, reported a resolution that the Association recommend the passage by each state and by Congress for the District of Columbia and the territories, of a law providing for the appointment of Commissioners to confer with Commissioners from other states on the subject of uniformity in legislation on certain subjects. As a result of the action of New York, of the recommendation of the American Bar Association, and of the efforts of various interested persons, the first National Conference of Commissioners was held in August, 1892, at Saratoga, New York, for three days immediately preceding the annual meeting of the American Bar Association. Since that time, thirty-five National Conferences have been held. While in the first National Conference but nine states were represented, since 1912, all the states, territories, the District of Columbia, Porto Rico, and the Philippine Islands have been officially represented.

The object of the National Conference, as stated in its Constitution, is "to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practicable." The National Conference works through standing and special committees. In recent years all proposals of subjects for legislation are referred to a standing Committee on Scope and Program. After due investigation, and sometimes a hearing of parties interested, this committee reports whether the subject is one upon which it is desirable and feasible to draft a uniform law. If the National Conference decides to take up the subject, it refers the same to a special committee with instructions to report a draft of an act. With respect to some of the more important acts, it has been customary to employ an expert draughtsman. Tentative

drafts of acts are submitted from year to year and are discussed section by section. Each uniform act is thus the result of one or more tentative drafts subjected to the criticism, correction, and emendation of the Commissioners, who represent the experience and judgment of a select body of lawyers chosen from every part of the United States. When finally approved by the National Conference, the Uniform Acts are recommended for general adoption throughout the jurisdictions of the United States and are submitted to the American Bar Association for its approval.

The National Conference has drafted and approved forty-two acts. It has also approved seven acts drafted by other organizations. Some of its own acts have been by National Conference action declared obsolete and superseded, leaving at present a total of thirty-four acts being recommended for adoption. A complete list of all acts drafted and approved, of acts drafted by other bodies and approved by the National Conference, of obsolete and superseded acts, and the extent to which the acts have been adopted in the various jurisdictions, are shown in appropriate tables on pages 27-37.

The list of present and past officers, of the dates and places of previous meetings, the present personnel of the National Conference, and the standing and special committees are set forth on pages 6-27.

As an aid in promoting uniformity of judicial interpretation of the various acts, the National Conference has fortunately secured, through the efforts and able editorship of the late Commissioner Charles Thaddeus Terry of New York, Chairman of the Committee on Uniformity of Judicial Decisions, the publication in a single volume by Baker, Voorhis & Co., of New York City, of the Uniform Acts with full annotations.

OFFICERS OF THE CONFERENCE

RETIRING OFFICERS

1924-1925

Nathan William MacChesney, 30 N. LaSalle St., Chicago, Ill., *President*.
Joseph F. O'Connell, 11 Beacon St., Boston, Mass., *Vice-President*.
George G. Bogert, Cornell Law School, Ithaca, N. Y., *Secretary*.
W. O. Hart, 134 Carondelet St., New Orleans, La., *Treasurer*.
Jesse A. Miller, 1513 Equitable Bldg., Des Moines, Ia., *Chairman, Executive Committee*.

OFFICERS 1925-1926

George B. Young, 131 State St., Montpelier, Vt., *President*.
Jefferson P. Chandler, 215 West 7th St., Los Angeles, Cal., *Vice-President*.
George G. Bogert, University of Chicago Law School, Chicago, Ill., *Secretary*.
W. O. Hart, 134 Carondelet St., New Orleans, La., *Treasurer*.
Jesse A. Miller, 1513 Equitable Building, Des Moines, Ia., *Chairman of Executive Committee*.

COMMITTEES OF THE CONFERENCE, 1925-1926

STANDING COMMITTEES

- A. EXECUTIVE—*Appointed Members*: Jesse A. Miller, 1513 Equitable Bldg., Des Moines, Iowa, *Chairman*; William M. Hargest, Harrisburg, Pa.; John R. Hardin, Prudential Bldg., Newark, N. J.; Wade Millis, Ford Bldg., Detroit, Mich.; George E. Beers, 42 Church St., New Haven, Conn.
EX-OFFICIO—George B. Young, 131 State St., Montpelier, Vt., *President*; Jefferson P. Chandler, 215 West 7th St., Los Angeles, Cal., *Vice-President*; George G. Bogert, University of Chicago Law School, Chicago, Ill., *Secretary*; W. O. Hart, 134 Carondelet St., New Orleans, La., *Treasurer*; Nathan William MacChesney, 30 N. LaSalle St., Chicago, Ill., *Ex-President*; John H. Voorhees, Bailey-Glidden Bldg., Sioux Falls, S. D., *Chairman of Legislative Committee*.
- B. SCOPE AND PROGRAM—William M. Hargest, Harrisburg, Pa., *Chairman*; Samuel Williston, Harvard Law School, Cambridge, Mass.; Ernst Freund, University of Chicago Law School, Chicago, Ill.; Henry M. Bates, Law School, University of Michigan, Ann Arbor, Mich.; Henry U. Sims, First National Bank Bldg., Birmingham, Ala.
- C. PUBLIC INFORMATION—Harrison A. Bronson, Grand Forks, N. D., *Chairman*; Jefferson P. Chandler, 215 West 7th St., Los Angeles, Cal.; Rome G. Brown, Metropolitan Life Bldg., Minneapolis, Minn.; Thomas W. Shelton, Norfolk, Va.; Frederick S. Tyler, Metropolitan Bank Bldg., Washington, D. C.; William Draper Lewis, 3400 Chestnut St., Philadelphia, Pa.; Wiliam Hunter, Tampa, Fla.

- D. **LEGISLATIVE**—John H. Voorhees, Bailey-Glidden Bldg., Sioux Falls, S. D., *Chairman*; Robert Stone, Topeka, Kans.; William W. Moss, Providence, R. I.; Frank Pace, Little Rock, Ark.; J. O. Seth, Santa Fe, New Mex.; E. H. Cabaniss, Age-Herald Bldg., Birmingham, Ala.; Clarence E. Martin, Martinsburg, W. Va.
- E. **ON APPOINTMENT OF AND ATTENDANCE BY COMMISSIONERS**—Murray M. Shoemaker, First Nat. Bank Bldg., Cincinnati, Ohio, *Chairman*; James R. Caton, Alexandria, Va.; Elmer Brock, Denver, Colo.; T. A. Hammond, Atlanta, Ga.; James M. Tunnell, Georgetown, Del.; J. W. Vandervort, 3d and Juliana Sts., Parkersburg, W. Va.; J. K. Dixon, Talladega, Ala.

GENERAL COMMITTEES AND SECTIONS

General:

- I. **LEGISLATIVE DRAFTING**—Ernst Freund, University of Chicago Law School, Chicago, Ill., *Chairman*; William E. Britton, University of Illinois Law School, Urbana, Ill.; R. L. Tullis, Louisiana State University, Baton Rouge, La.; Henry M. Bates, Law School, Ann Arbor, Mich.; R. E. L. Saner, Magnolia Bldg., Dallas, Tex.; Joseph H. Zumbalen, Washington University, St. Louis, Mo.; T. A. Hammond, Atlanta, Ga.
- II. **UNIFORMITY OF JUDICIAL DECISIONS**—Thomas W. Shelton, Norfolk, Va., *Chairman*; William M. Hargest, Harrisburg, Pa.; Harrison A. Bronson, Grand Forks, N. D.; James M. Graham, Springfield, Ill.; William Hunter, Tampa, Fla.; James F. Ailshie, Ceour D'Alene, Ida.; Joseph C. O'Mahoney, Cheyenne, Wyo.
- III. **COOPERATION WITH OTHER ORGANIZATIONS INTERESTED IN UNIFORM STATE LAWS**—George M. Hogan, St. Albans, Vt., *Chairman*; R. E. L. Saner, Magnolia Bldg., Dallas, Tex.; W. H. Washington, Stahlman Bldg., Nashville, Tenn.; Frank Pace, Little Rock, Ark.; Christopher L. Avery, Groton, Conn.; Henry G. W. Dinkelspiel, De Young Bldg., San Francisco, Cal.; Max Schoetz, Jr., Marquette Law School, Milwaukee, Wis.
- IV. **COOPERATION WITH AMERICAN LAW INSTITUTE**—Samuel Williston, Harvard Law School, Cambridge, Mass., *Chairman*; William M. Crook, Gilbert Bldg., Beaumont, Tex.; W. O. Hart, 134 Carondelet St., New Orleans, La.; W. H. Arnold, Texarkana, Ark.; H. S. Richards, Law School, Madison, Wis.; George M. Hogan, St. Albans, Vt.; Elmer Brock, Denver, Colo.

Sections and Special Committees on Various Uniform Acts:

- A. **UNIFORM COMMERCIAL ACTS SECTION**—John Hinkley, 215 North Charles St., Baltimore, Md., *Chairman*; W. H. H. Piatt, 715 Commerce Bldg., Kansas City, Mo.; John R. Hardin, Prudential Bldg., Newark, N. J.; Thomas A. Jenckes, Turks Head Bldg., Providence, R. I.; Samuel Williston, Harvard Law School, Cambridge, Mass.; Earle W. Evans, Wichita, Kan.; A. T. Stovall, Okolona, Miss.; T. F. Doran, New England Bldg., Topeka, Kan.

Committees on:

- I. Uniform Sale of Securities Act, John Hinkley, *Chairman*.
 - II. Uniform State Trade Mark Act, W. H. H. Piatt, *Chairman*.
 - III. Uniform Trust Receipts Act, John R. Hardin, *Chairman*.
 - IV. Uniform Act to Standardize Milk and Cream Containers, T. F. Doran, *Chairman*.
 - V. Amendments to Uniform Acts, Samuel Williston, *Chairman*.
 - VI. Uniform Cooperative Marketing Act, Earle W. Evans, *Chairman*.
- B. UNIFORM PROPERTY ACTS SECTION—W. F. Bruell, Redfield, S. D., *Chairman*; S. R. Child, Lumber Exchange, Minneapolis, Minn.; George M. Hogan, St. Albans, Vt.; Randolph Barton, Jr., 207 No. Calvert St., Baltimore, Md.; W. H. Washington, Stahlman Bldg., Nashville, Tenn.; George G. Bogert, University of Chicago Law School, Chicago, Ill.; William E. Britton, Law School, Urbana, Ill.; William Osmond, Great Bend, Kan.; L. Barrett Jones, Jackson, Miss.

Committees on:

- I. Uniform Acknowledgment of Instruments Act, L. Barrett Jones, *Chairman*.
 - II. Uniform Real Property Acts, Randolph Barton, Jr., *Chairman*.
 - III. Uniform Law Relating to Filing of Federal Tax Liens, W. H. Washington, *Chairman*.
 - IV. Uniform Law Relating to Corpus and Income, Murray M. Shoemaker, *Chairman*.
 - V. Uniform Chattel Mortgage Act, George M. Hogan, *Chairman*.
- C. UNIFORM SOCIAL WELFARE ACTS SECTION—Walter C. Clephane, Wilkins Bldg., Washington, D. C., *Chairman*; Ernst Freund, Law School, University of Chicago, Chicago, Ill.; Hollis R. Bailey, 84 State St., Boston, Mass.; Harry L. Cram, 102 Exchange St., Portland, Me.; Bruce W. Sanborn, St. Paul, Minn.; C. M. Clay Buntain, 401 Cobb Bldg., Kan-
kakee, Ill.; T. S. Riley, Wheeling, W. Va.; D. H. Rowland, Tacoma, Wash.; Adolph G. Wolf, San Juan, Porto Rico.

Committees on:

- I. Uniform Child Labor Act, Bruce W. Sanborn, *Chairman*.
- II. Uniform Narcotic Drug Act, C. M. Clay Buntain, *Chairman*.
- III. Uniform Act for One Day's Rest in Seven, Ernst Freund, *Chairman*.
- IV. Uniform Act for Joint Parental Guardianship of Children, Harry L. Cram, *Chairman*.
- V. Uniform Sanitary Bedding Act, D. H. Rowland, *Chairman*.
- VI. Uniform Marriage and Divorce Acts, Hollis R. Bailey, *Chairman*.

- D. **UNIFORM PUBLIC LAW SECTION**—Nathan William MacChesney, 30 N. LaSalle St., Chicago, Ill., *Chairman*; Arthur H. Ryall, Escanaba, Mich.; Hazen I. Sawyer, Keokuk, Iowa; George E. Beers, 42 Church St., New Haven, Conn.; Gurney E. Newlin, Title Ins. Bldg., Los Angeles, Cal.; Alexander Armstrong, Maryland Trust Bldg., Baltimore, Md.; W. H. Folland, City and County Bldg., Salt Lake City, Utah; Robert Stone, Topeka, Kan.; William A. Schnader, 701 Commercial Trust Bldg., Philadelphia, Pa.

Committees on:

I. **Uniform Public Law Acts:**

1. Uniform Public Utilities Act, Hazen I. Sawyer, *Chairman*.
2. Uniform Act Governing the Use of Highways by Vehicles, Gurney E. Newlin, *Chairman*.
3. Uniform Compulsory Automobile Insurance Act, William A. Schnader, *Chairman*.
4. Uniform State Inheritance Tax Act, Alexander Armstrong, *Chairman*.
5. Uniform Act for a Tribunal to Settle Industrial Disputes, Robert Stone, *Chairman*.

II. **Uniform Act for Compacts and Agreements between States**, James M. Graham, Springfield, Ill., *Chairman*; Merrill Moores, Indianapolis, Ind.; Ellison G. Smith, Vermillion, S. D.; Henry G. W. Dinkelspiel, De Young Bldg., San Francisco, Cal.; Max Schoetz, Jr., Marquette Law School, Milwaukee, Wis.; M. C. Olbrich, Madison, Wis.; J. O. Seth, Santa Fe, N. M.

- E. **UNIFORM CORPORATION ACTS SECTION**—Wade Millis, Ford Bldg., Detroit, Mich., *Chairman*; William M. Crook, Beaumont, Tex.; George B. Rose, Little Rock, Ark.; Willard L. Sturdevant, Central Nat'l Bk. Bldg., St. Louis, Mo.; H. S. Richards, Law School, Madison, Wis.; William B. Greenough, 15 Westminster St., Providence, R. I.; William Draper Lewis, 3400 Chestnut St., Philadelphia, Pa.

Committee on:

I. **Uniform Incorporation Act**, Wade Millis, *Chairman*.

- F. **UNIFORM TORTS AND CRIMINAL LAW SECTION**—Henry U. Sims, First National Bank Bldg., Birmingham, Ala., *Chairman*; Joseph F. O'Connell, 11 Beacon St., Boston, Mass.; J. W. Vandervort, 3rd and Juliana Sts., Parkersburg, W. Va.; J. M. Tunnell, Georgetown, Del.; O. L. Phillips, Albuquerque, N. M.; D. A. McDougal, Sapulpa, Okla.; George B. Martin, Catlettsburg, Ky.; Charles V. Imlay, 1416 F St., N. W., Washington, D. C.

Committees on:

- I. **Uniform Act for Extradition of Persons Charged with Crime**, Henry U. Sims, *Chairman*.

- II. Uniform Act to Regulate the Sale and Possession of Firearms, Charles V. Imlay, *Chairman*.
- G. UNIFORM CIVIL PROCEDURE SECTION—F. M. Clevenger, Wilmington, Ohio, *Chairman*; Charles M. Dutcher, Iowa City, Iowa; C. R. Hollingsworth, Eccles Bldg., Ogden, Utah; Henry U. Sims, First Nat'l Bank Bldg., Birmingham, Ala.; O. A. Harker, Law School, Urbana, Ill.; James F. Ailshie, Ceour D'Alene, Ida.; Elmer Brock, Denver, Colo.

Committees on:

- I. Uniform Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases, Chas. M. Dutcher, *Chairman*.
- II. Uniform Act for Notices to Legatees (before Probate), Elmer Brock, *Chairman*.
- III. Uniform Mechanics' Lien Law, C. R. Hollingsworth, *Chairman*, and Charles V. Imlay, 1416 F. St., N. W., Washington, D. C., and William W. Moss, Providence, R. I., additional members.

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

ROLL OF COMMISSIONERS, AUGUST, 1925*

- ALABAMA—F. D. McArthur, Secretary, (1922; —), Birmingham; Henry U. Sims, Chairman, (1920; till Jan. 1, 1927), 1010-1014 First Natl. Bank Building, Birmingham; J. K. Dixon, (1919; till 1927), Talladega; E. H. Cabaniss, (1924; till June, 1927), The Age-Herald Bldg., Birmingham.
- ALASKA—John A. Clark, Chairman and Secretary, (1917; —), Fairbanks; W. H. Whittlessey, (1917; —), Seward; John C. Murphy, (1919; —), Anchorage.
- ARIZONA—Con P. Cronin, Chairman, (1917; indefinite), State House, Phoenix; Frank E. Curley, Secretary, (1922; —), Tucson.
- ARKANSAS—W. H. Arnold, (1917; till 1925), Texarkana; George B. Rose, Secretary, (1920; —), Little Rock; Ashley Cockrill, Chairman, (1914; indefinite), Little Rock; Frank Pace, (1923; till 1926), Little Rock; J. H. Hamiter, (1922; —), Little Rock.
- CALIFORNIA—Jefferson P. Chandler, (1921; indefinite), 617 Bartlett Building, 215 West 7th St., Los Angeles; Gurney E. Newlin, (1924; till 1928), Title Insurance Building, Los Angeles; Percy V. Long, (1922; indefinite), Insurance Exchange Bldg., San Francisco; Henry G. W. Dinkelspiel, Secretary, (1923; indefinite), 901 De Young Building, San Francisco.

*Material after Commissioner's name indicates office held in State Commission on Uniform Laws, date of appointment and date of expiration of term.

COLORADO—Fred W. Stow, (1917; till 1930), Fort Collins; Willis L. Strachan, (1915; till 1927), Colorado Springs; E. L. Brock, (), c/o Smith & Brock, Denver.

CONNECTICUT—George E. Beers, Secretary, (1916; indefinite), 42 Church St., New Haven; Walter E. Coe, (1905; indefinite), Stamford; Christopher L. Avery, Chairman, (1914; indefinite), Groton.

DELAWARE—James M. Satterfield, Secretary, (1913; till 1925), Dover; James M. Tunnell, (1923; till 1927), Georgetown.

DISTRICT OF COLUMBIA—Walter C. Clephane, Chairman, (1921; —), Wilkins Bldg., Washington; Charles V. Imlay, (1919; indefinite), 1416 F St., N. W., Washington; Frederick S. Tyler, Secretary, (1919; indefinite), Metropolitan Bank Bldg., Washington.

FLORIDA—Charles J. Morrow, Secretary, (1919; till 1926), Citizens Bank Bldg., Tampa; William Hunter, Chairman, (1922; till June 16, 1925), Tampa.

GEORGIA—P. W. Meldrim, Chairman, (—; indefinite), Court House, Savannah; T. A. Hammond, (1913; indefinite), Atlanta; J. Hansell Merrill, Secretary, (1913; indefinite), Thomasville.

HAWAII—Charles F. Clemons, Chairman, (1922; —), 512 Hawaiian Trust Bldg., Honolulu; Miss Marguerite K. Ashford, Secretary, (1923; —), 33 South King St., Honolulu; John Albert Matthewman, (1923; till August 22, 1926), Honolulu.

IDAHO—James F. Ailshie, (1924; till June 5, 1928), Coeur D'Alene; O. O. Haga, (), Boise; James G. Gwinn, (), St. Anthony.

ILLINOIS—Nathan William MacChesney, (1925; till 1929), 30 N. LaSalle St., Chicago; Ernst Freund, Chairman, (1925; till 1929), Univ. of Chicago, Chicago; C. M. Clay Buntain, Secretary, (1925; till 1929), 401 Cobb Bldg., Kankakee; James M. Graham, Chairman, (1925; till 1929), Springfield; Oliver A. Harker, (1925; till 1929), College of Law, University of Illinois, Urbana.

INDIANA—Thomas A. Dailey, (1922; indefinite), 1003 Lemcke Bldg., Indianapolis; Merrill Moores, Chairman, (1909; indefinite), Indianapolis; T. M. Talcott, Jr., (1920; indefinite), South Bend; B. F. Heaton, (1915; indefinite), Fort Wayne.

IOWA—Charles M. Dutcher, Chairman, (1925; till 1929), Iowa City; Jesse A. Miller, (1925; till 1929), 1513 Equitable Bldg., Des Moines; Hazen I. Sawyer, Secretary, (1925; till 1929), 30 N. 4th St., Keokuk.

KANSAS—Stephen H. Allen, Chairman, (1909; indefinite), Crawford Building, Topeka; Robert Stone, (1925; —), Topeka; Thomas P. Doran, (1925; —), 612 New England Bldg., Topeka; William Osmond, (1925; —), Great Bend; Earle W. Evans, (1920; —), Wichita; Chester I. Long, Secretary, (1922; —), Wichita; Karl M. Geddes, (1922; —), El Dorado.

- KENTUCKY—Ben F. Washer, (1921; indefinite), Louisville; George B. Martin (1916; indefinite), Catlettsburg; J. B. Snyder, (1921; indefinite), Williamsburg.
- LOUISIANA—W. O. Hart, Secretary, (1902; indefinite), New Orleans; R. S. Thornton, Vice-Chairman, (1917; indefinite), Alexandria; R. L. Tullis, Chairman, (1921; indefinite), Louisiana State University, Baton Rouge.
- MAINE—Harry L. Cram, Secretary, (1913; till April 22, 1925), 102 Exchange St., Portland; H. H. Murchie, (1922; till Nov. 17, 1925), Calais; P. H. Gillen, Chairman, (1913; till 1925), Bangor.
- MARYLAND—John Hinkley, Secretary, (1912; till May, 1927), 215 N. Charles St., Baltimore; Alexander Armstrong, Chairman, (1924; —), Maryland Trust Building, Baltimore; Randolph Barton, Jr., (1924; —), 207 No. Calvert St., Baltimore.
- MASSACHUSETTS—Hollis R. Bailey, Chairman and Secretary, (1909; till July, 1929), 84 State St., Boston; Samuel Williston, (1910; indefinite), Harvard Law School, Cambridge; Joseph F. O'Connell, (1914; till August, 1929), 11 Beacon St., Lawyers Building, Boston.
- MICHIGAN—Wade Millis, Chairman and Acting Secretary, (1921; indefinite), Ford Building, Detroit; Henry M. Bates, (1921; indefinite), Law School, Ann Arbor; Arthur H. Ryall, (1923; indefinite), Escanaba.
- MINNESOTA—Rome G. Brown, Chairman, (1915 —), 1008 Metropolitan Life Bldg., Minneapolis; S. R. Child, Secretary, (1915; —), 1106 Lumber Exchange, Minneapolis; Bruce W. Sanborn, Endicott Bldg., St. Paul.
- MISSISSIPPI—A. T. Stovall, Chairman, (1908; indefinite), Okolona; R. N. Miller, (1915; —), Hazelhurst; Webb W. Venable, (1924; till 1928), Clarksdale; J. S. Sexton, Secretary, Hazelhurst; A. W. Shands, (1925; —), Cleveland; L. Barrett Jones, (1925; —), Jackson.
- MISSOURI—James B. McBaine, Chairman, (1919; —), Columbia; Willard L. Sturdevant, Secretary, (1921; indefinite), Central National Bank Building, St. Louis; W. H. H. Piatt, (1922; till 1926), 715 Commerce Building, Kansas City; Joseph Zumbalen, (1924; —), Washington University, St. Louis.
- MONTANA—C. A. Spaulding, (1922; indefinite), Helena; W. F. O'Leary, (1922; indefinite), Great Falls; Mrs. Margaret Young, (1923; till 1926), Forsyth.
- NEBRASKA—Clarence A. Davis, (1921; —), Holdredge; Edward F. Leary, Secretary, (1921; till 1926), First Natl. Bank Bldg., Omaha; Arthur R. Wells, Chairman, (1921; —), c/o Stout, Rose, Wells & Martin, Omaha.
- NEVADA—Homer Mooney, Chairman, (1922; till July 5, 1925), Carson City; Frank H. Norcross, Secretary, (1922; —), Reno; Alfred Chartz, (1925; —), Carson City.
- NEW HAMPSHIRE—Ira A. Chase, (1905; indefinite), Bristol; John R. McLane, (1923; indefinite), Manchester; Stephen S. Jewett, Chairman, (1919; indefinite), Laconia.

- NEW JERSEY—John R. Hardin, Chairman, (1912; till 1924), Prudential Bldg., Newark; Mark A. Sullivan, Secretary, (1918; till 1924), 15 Exchange Place, Jersey City; George A. Bourgeois, (1917; —), Law Building, Atlantic City.
- NEW MEXICO—J. O. Seth, (1923; indefinite), Santa Fe; O. L. Phillips, (1925; till 1927), Albuquerque; Hiram M. Dow, (1925; till 1927), Roswell.
- NEW YORK—Carlos C. Alden, Chairman, (1910; indefinite), Lafayette Building, Buffalo; George G. Bogert, Secretary, (1920; indefinite), Cornell Law School, Ithaca; Edward Ward McMahon, (1923; —), 165 Broadway, New York City.
- NORTH CAROLINA—J. Crawford Biggs, (1914; indefinite), Raleigh; W. P. Bynum, (1920; indefinite), Greensboro.
- NORTH DAKOTA—H. A. Bronson, (1918; indefinite), Grand Forks; Sveinbjorn Johnson, (1925; —), Bismarck.
- OHIO—A. V. Cannon, Chairman, (1915; till July 13, 1925), 1565 Union Trust Building, Cleveland; F. M. Clevenger, Secretary, (1915; till June 7, 1924), Wilmington; Murray M. Shoemaker, (1924; —), 1814 First Natl. Bank Bldg., Cincinnati.
- OKLAHOMA—W. A. Ledbetter, (1925; —), Oklahoma City; Phil C. Kates, (1923; indefinite), Tulsa; D. A. McDougal, (1923; indefinite), Sapulpa.
- OREGON—Gus C. Moser, (1922; indefinite), Yeon Bldg., Portland; W. P. Lord, Jr., (1920; indefinite), Lewis Building, Portland; Albert B. Ridgway, (1925; —), Portland.
- PENNSYLVANIA—W. M. Hargest, Chairman, (1914; till 1927), Harrisburg; William Draper Lewis, (1923; —), 3400 Chestnut St., Philadelphia; William H. Schnader, Secretary, (1924; —), 701 Commercial Trust Bldg., Philadelphia.
- PHILIPPINE ISLANDS—Charles S. Lobingier, (1911; indefinite), Shanghai, China; Julian A. Wolfson, (1915; indefinite), 65 Juan Luna St., Binando, Manila; Robert E. Manley, (1916; indefinite), Naga, Camarines.
- PORTO RICO—Manuel Rodriguez Serra, (1912; till 1925), San Juan; Adolph G. Wolf, (1918; —), San Juan.
- RHODE ISLAND—Thomas A. Jenckes, Chairman, (1923; Jan. 31, 1926), Turks Head Bldg., Providence; William B. Greenough, (1915; till 1927), 15 Westminster St., Providence; William W. Moss, (1925; till 1928), Providence.
- SOUTH CAROLINA—J. E. McDonald, (1915; indefinite), Winnsboro; R. S. Stewart, (1925; —), Lancaster; A. F. Woods, (1925; —), Marion; D. A. G. Ouzts, (1925; —), Greenwood.
- SOUTH DAKOTA—John H. Voorhees, Secretary, (1921; indefinite), Bailey-Glidden Building, Sioux Falls; W. F. Bruell, (1911; till 1925), Redfield; Ellison G. Smith, Chairman, (1922; indefinite), Vermillion.

- TENNESSEE—W. H. Washington, Chairman, (1910; indefinite), Stahlman Building, Nashville; Thad A. Cox, (1915;), Johnson City; Walter P. Armstrong, Secretary, (1922; indefinite), Bank of Commerce Building, Memphis.
- TEXAS—William M. Crook, Chairman and Secretary, (1909; indefinite), Gilbert Bldg., Beaumont; R. E. L. Saner, (1920; indefinite), Magnolia Building, Dallas; Claude Pollard, (1920; indefinite), Houston.
- UTAH—W. H. Folland, Chairman, (1914; till 1925), 414 City and County Building, Salt Lake City; Charles R. Hollingsworth, (1907; till 1925), 518 Eccles Bldg., Ogden; William H. Leary, Secretary, (1917; till 1925), Salt Lake City.
- VERMONT—George B. Young, Chairman, (1913; till Jan. 31, 1926), 131 State St., Montpelier; George M. Hogan, Secretary, (1918; till Feb. 1, 1927), St. Albans.
- VIRGINIA—James R. Caton, (1908; till April 1, 1925), Alexandria; John W. Carter, Jr., (1925; —), Danville; Thomas W. Shelton, (1924; till April 11, 1925), Norfolk.
- WASHINGTON—Charles E. Shepard, Chairman, (1905; indefinite), 803 Leary Bldg., Seattle; Arthur W. Davis, Secretary, (1919; indefinite), Spokane; D. H. Rowland, (1922; indefinite), Tacoma.
- WEST VIRGINIA—J. W. Vandervort, (1925; —), 3rd and Juliana Sts., Parkersburg; Clarence E. Martin, (1925; —), Martinsburg; Thomas S. Riley, (1925; —), Wheeling.
- WISCONSIN—M. B. Olbrich, (), Madison; H. S. Richards, (1924; till June 1, 1927), University of Wisconsin, Madison; Max Schoetz, Jr., (1925; —), Marquette Law School, Milwaukee.
- WYOMING—Marion A. Kline, (1924; indefinite), First National Bank Bldg., Cheyenne; E. C. Raymond, (1925; —), New Castle; Joseph C. O'Mahoney, (1925; —), Cheyenne.

COMMISSIONERS IN ATTENDANCE AT THE THIRTY-FIFTH ANNUAL CONFERENCE

HOTEL STATLER, DETROIT

August 25-31, 1925

- ALABAMA—E. H. Cabaniss, Birmingham; J. K. Dixon, Talladega; Henry U. Sims, Birmingham.
- ARIZONA—Frank E. Curley, Tucson.
- ARKANSAS—W. H. Arnold, Texarkana; George B. Rose, Little Rock; Frank Pace, Little Rock.
- CALIFORNIA—Jefferson P. Chandler, Los Angeles; Henry G. W. Dinkelspiel, San Francisco; Gurney E. Newlin, Los Angeles.
- COLORADO—Elmer L. Brock, Denver.
- CONNECTICUT—George E. Beers, New Haven.
- DELAWARE—James M. Tunnell, Georgetown.

DISTRICT OF COLUMBIA—Walter C. Clephane, Washington; Charles V. Imlay, Washington; Frederick S. Tyler, Washington.

FLORIDA—Wm. Hunter, Tampa.

GEORGIA—T. A. Hammond, Atlanta.

IDAHO—James F. Ailshie, Coeur D'Alene.

ILLINOIS—C. M. Clay Buntain, Kankakee; Ernst Freund, Chicago; James M. Graham, Springfield; O. A. Harker, Champaign; Nathan William MacChesney, Chicago.

INDIANA—William E. Britton; Merrill Moores, Indianapolis.

IOWA—Charles M. Dutcher, Iowa City; Jesse A. Miller, Des Moines; Hazen I. Sawyer, Keokuk.

KANSAS—Thomas F. Doran, Topeka; Earle W. Evans, Wichita; Chester I. Long, Wichita; Wm. Osmond, Great Bend; Robert Stone, Topeka.

KENTUCKY—George B. Martin, Catlettsburg.

LOUISIANA—W. O. Hart, New Orleans; R. S. Thornton, Alexandria; R. L. Tullis, Baton Rouge.

MAINE—Henry L. Cram, Portland.

MARYLAND—Alexander Armstrong, Baltimore; John Hinkley, Baltimore; Randolph Barton, Jr., Baltimore.

MASSACHUSETTS—Hollis R. Bailey, Boston; Joseph F. O'Connell, Boston; Samuel Williston, Cambridge.

MICHIGAN—Wade Millis, Detroit; A. H. Ryall, Escanaba.

MINNESOTA—S. R. Child, Minneapolis; Bruce W. Sanborn, St. Paul.

MISSISSIPPI—L. Barrett Jones, Jackson; A. W. Shands, Cleveland; A. T. Stovall, Okolona.

MISSOURI—W. H. H. Piatt, Kansas City; Willard L. Sturdevant, St. Louis; Joseph H. Zumbalen, St. Louis.

NEW JERSEY—John R. Hardin, Newark.

NEW MEXICO—O. L. Phillips, Albuquerque; J. O. Seth, Santa Fe.

NEW YORK—George G. Bogert, Ithaca.

NORTH DAKOTA—Harrison A. Bronson, Grand Forks.

OHIO—F. M. Clevenger, Wilmington; Murray M. Shoemaker, Cincinnati.

OKLAHOMA—D. A. McDougal, Sapulpa.

PENNSYLVANIA—Wm. M. Hargest, Harrisburg; Wm. A. Schnader, Philadelphia; William Draper Lewis, Philadelphia.

RHODE ISLAND—William B. Greenough, Providence; Thomas A. Jenckes, Providence; William W. Moss, Providence.

SOUTH DAKOTA—William F. Bruell, Redfield; John H. Voorhees, Sioux Falls.

TENNESSEE—W. H. Washington, Nashville.

TEXAS—R. E. L. Saner, Dallas; W. M. Crook, Beaumont.

UTAH—Wm. H. Folland, Salt Lake City; Chas. R. Hollingsworth, Ogden.

VERMONT—George M. Hogan, St. Albans; George B. Young, Montpelier.

VIRGINIA—James R. Caton, Alexandria; Thomas W. Shelton, Norfolk.

WASHINGTON—Dix H. Rowland, Tacoma.

WEST VIRGINIA—Clarence E. Martin, Martinsburg; Thomas S. Riley, Wheeling; J. W. Vandervort, Parkersburg.
WISCONSIN—H. S. Richards, Madison; Max Schoetz, Jr., Milwaukee.
WYOMING—Joseph C. O'Mahoney, Cheyenne.

VISITORS

Mrs. Alexander Armstrong, Baltimore, Md.; Mrs. Hollis R. Bailey, Boston, Mass.; Mr. Donald E. Bridgman, Minneapolis, Minn.; Mrs. William F. Bruell, Redfield, S. D.; Mrs. E. H. Cabaniss, Birmingham, Ala.; Mrs. Jefferson P. Chandler, Los Angeles, Calif.; Mrs. Walter C. Clephane, Washington, D. C.; Mrs. Henry L. Cram, Portland, Me.; Mr. J. Allen Davis, Los Angeles, Calif.; Mrs. Thomas F. Doran, Topeka, Kans.; Mrs. Charles M. Dutcher, Iowa City, Ia.; Mr. J. H. Fertig, Harrisburg, Pa.; Mrs. Ernst Freund, Chicago, Ill. (August 27th); Mr. Karl T. Frederick, New York City; Mr. N. T. Guernsey, New York City; Mrs. William M. Hargest, Harrisburg, Pa.; Mrs. George Hogan, St. Albans, Vt.; Mrs. Charles R. Hollingsworth, Ogden, Utah; Mr. and Mrs. Carl D. Jackson, New York City; Mr. J. W. Jamison, St. Louis, Mo.; Mrs. L. Barrett Jones, Jackson, Miss.; Mr. and Mrs. W. C. Kinkad, Cheyenne; C. E. Lane, Cheyenne, Wyo.; Mr. K. N. Llewellyn, New Haven, Conn.; Mrs. Nathan William MacChesney, Chicago, Ill.; Mrs. Joseph C. O'Mahoney, Cheyenne, Wyo.; Miss Doris Markley, Mason City, Ia.; Mrs. Wade Millis and daughter, Miss Dorothy Millis, Detroit, Mich.; Mrs. Frank Pace, Little Rock; Mrs. W. H. H. Piatt, Kansas City, Mo.; Mrs. George B. Rose, Little Rock, Ark.; Mrs. D. H. Rowland, Tacoma, Wash. (August 29th); Mrs. C. H. Rusk, Tampa, Fla.; Mrs. A. H. Ryall, Escanaba, Mich.; John B. Sanborn, Madison, Wis.; Mrs. R. E. L. Saner and daughter, Miss Dorothy Lee Saner, Dallas, Tex.; Mrs. Hazen I. Sawyer, Keokuk, Ia.; Mrs. William A. Schnader, Philadelphia, Pa.; Mrs. Henry U. Sims, Birmingham, Ala.; Mrs. A. W. Shands, Cleveland, Miss.; Mrs. Murray M. Shoemaker, Cincinnati, Ohio; Mr. E. D. Smith, Atlanta, Ga.; Mr. E. Blythe Stason, Ann Arbor, Mich.; Mrs. Robert Stone, Topeka, Kans.; Mrs. R. S. Thornton, Alexandria, La.; Miss Constance E. Tyler, Washington, D. C.; Miss Maud Vandervort, Parkersburg, W. Va.; Mrs. John H. Voorhees, Sioux Falls, S. D.; Mrs. W. H. Washington, Nashville, Tenn.; Mr. and Mrs. Nathan B. Williams, Washington, D. C.; Miss E. E. Wunder, Harrisburg, Pa.

COMMISSIONERS WHO CEASED TO BE MEMBERS OF THE CONFERENCE BETWEEN THE CLOSE OF THE 1924 CONFERENCE AND THE OPENING OF THE 1925 CONFERENCE

ARIZONA—H. B. Wilkinson, Phoenix.

CALIFORNIA—Bradner W. Lee, Los Angeles, deceased; Allan Chickering, San Francisco.

COLORADO—John H. Fry, Denver, deceased.

DELAWARE—D. O. Hastings, Wilmington.

FLORIDA—Louis C. Massey, Orlando.
 IDAHO—Miles S. Johnson, Lewiston; John W. Jones, Blackfoot.
 ILLINOIS—John H. Wigmore, Chicago; Joseph J. Thompson, Chicago.
 KANSAS—Charles W. Smith, deceased.
 MINNESOTA—C. A. Severance, deceased.
 MISSISSIPPI—Percy Bell, Greenville; W. H. Clifton, Aberdeen.
 NEW MEXICO—C. M. Botts, Santa Fe; J. W. Armstrong, Carlsbad.
 NORTH DAKOTA—R. H. Grace, Bismarck.
 OKLAHOMA—James H. Veazey, Tulsa.
 VERMONT—J. G. Sargent, Ludlow.
 VIRGINIA—H. G. Peters, Bristol.
 WEST VIRGINIA—E. B. Stewart, Morgantown; F. N. Anderson, Richwood;
 D. W. Brown, Huntington; E. T. England, Charlestown.
 WYOMING—W. C. Kinkead, Cheyenne; Nellis E. Corthell, Laramie.

NEW COMMISSIONERS APPOINTED SINCE THE 1924 CONFERENCE

COLORADO—E. L. Brock, Denver.
 IDAHO—James G. Gwinn, St. Anthony; O. O. Haga, Boise.
 ILLINOIS—O. A. Harker, Urbana; C. M. Clay Buntain, Kankakee.
 KANSAS—Robert Stone, Topeka; William Osmond, Great Bend; Thos. F.
 Doran, Topeka.
 MINNESOTA—Bruce W. Sanborn, St. Paul.
 MISSISSIPPI—L. Barrett Jones, Jackson; A. W. Shands, Cleveland.
 NEVADA—Alfred Chartz, Carson City.
 NEW MEXICO—O. L. Phillips, Albuquerque; Hiram M. Dow, Roswell.
 NORTH DAKOTA—Sveinbjorn Johnson, Bismarck.
 OKLAHOMA—W. A. Ledbetter, Oklahoma City.
 OREGON—Albert B. Ridgway, Portland.
 RHODE ISLAND—William W. Moss, Providence.
 SOUTH CAROLINA—A. F. Woods, Marion; D. A. G. Ouzts, Greenwood.
 VIRGINIA—John W. Carter, Jr., Danville.
 WEST VIRGINIA—Thomas S. Riley, Wheeling; Clarence E. Martin, Martins-
 burg.
 WISCONSIN—Max Schoetz, Jr., Milwaukee.
 WYOMING—J. C. O'Mahoney, Cheyenne; E. C. Raymond, New Castle.

SUMMARY OF THE PROCEEDINGS OF THE THIRTY-FIFTH ANNUAL CONFERENCE

The Thirty-fifth Annual Conference of Commissioners on Uniform State Laws was held in Detroit, Mich., Aug. 25-31, 1925. Forty-two jurisdictions were represented. The names of these jurisdictions and of the Commissioners representing them are given on pages 14-16. The National Conference was called to order by President MacChesney. The following program with some modifications was completed on Monday, August 25th.

PROGRAM

TUESDAY, AUGUST 25th

9:30 A. M. First Session.

Address of Welcome.

Response of President.

Roll Call.

Reading of Minutes of Last Meeting.

Address of the President.

Report of the Secretary.

Report of the Treasurer.

Report of the Executive Committee.

Appointment of Committees on Memorials.

Report of Standing Committees.

Scope and Program.

Educational and Publicity.

Legislative.

Appointment of and attendance by Commissioners.

Reports of General Committees.

Legislative Drafting.

Uniformity of Judicial Decisions.

Co-operation with Other Organizations Interested in
Uniform State Laws.

Co-operation with American Law Institute.

Reports of Special Committees presenting no Drafts for Consideration.

Uniform Sale of Securities Act.

Uniform State Trademark Act.

Uniform Real Property Acts.

Uniform Law Relating to Corpus and Income.

Uniform Act for Joint Parental Guardianship of Children.

Uniform Sanitary Bedding Act.

Uniform Marriage and Divorce Act.

Uniform Act for Compacts and Agreements Between States.

Uniform Aeronautics Act.

Uniform Incorporation Act.

Uniform Act for Securing Compulsory Attendance of non-resident Witnesses.

Uniform Mechanics Lien Act.

TUESDAY, AUGUST 25th

2:00 P. M. Second Session.

Uniform Arbitration Act.

Uniform Industrial Disputes Act.

Uniform Federal Primary Act.

Uniform Inheritance Tax Act.

Uniform Public Utilities Act.

Uniform Act Governing the Use of Highways by Vehicles.

WEDNESDAY, AUGUST 26th

9:30 A. M. Third Session.

Uniform Act Governing the Use of Highways by Vehicles.

2:00 P. M. Fourth Session.

Uniform Act Governing the Use of Highways by Vehicles.

THURSDAY, AUGUST 27th

9:30 A. M. Fifth Session.

Uniform Mortgage Act.

2:00 P. M. Sixth Session.

Uniform Mortgage Act.

Report of Nominating Committee.

FRIDAY, AUGUST 28th

9:30 A. M. Seventh Session.

Uniform Acknowledgments Act.
Uniform Written Obligations Act.
Uniform Inter-party Agreement Act.
Uniform Joint Obligations Act.

2:00 P. M. Eighth Session.

Uniform Extradition Act.
Uniform Federal Tax Lien Registration Act.
5 P. M., Memorial Service for Deceased Commissioners:
Hon. Cordenio A. Severance, St. Paul, Minn.
Hon. John H. Fry, Denver, Colo.
Hon. Bradner W. Lee, Los Angeles, Calif.
Hon. Charles W. Smith, Topeka, Kan.
Hon. William H. Staake, Philadelphia, Pa.

SATURDAY, AUGUST 29th

9:30 A. M. Ninth Session.

Uniform Chattel Mortgage Act.

MONDAY, AUGUST 31st

9:30 A. M. Tenth Session.

Uniform Trust Receipts Act.
Uniform Firearms Act.

2:00 P. M. Eleventh Session.

Uniform Drug Act.
Uniform Act for One Day of Rest in Seven.
Uniform Child Labor Act.

SUMMARY OF PROCEEDINGS

Reports were received from the Secretary, the Treasurer, and the several standing committees.

The reports of the Committee on the Appointment of and Attendance by Commissioners show a change in the personnel of the National Conference since the last meeting. These changes are indicated on the table on page 16.

According to the report of the Legislative Committee, there were adoptions of Uniform Acts during the year 1925, as follows:

Idaho: Aeronautics Act, Fiduciaries Act, and Amendments to Warehouse Receipts Act.

New York: Fraudulent Conveyance Act, and Illegitimacy Act.

Ohio: Amendments to Sales Act, and Amendments to Warehouse Receipts Act.

Pennsylvania: Conditional Sales Act.

South Dakota: Aeronautics Act, Declaratory Judgments Act and Limited Partnership Act.

Utah: Declaratory Judgments Act, Fiduciaries Act, and Fraudulent Conveyance Act.

Wisconsin: Fiduciaries Act, Amendments to Sales Act, and Amendments to Warehouse Receipts Act.

In Tennessee the Stock Transfer Act was re-adopted to cure a defect in the title of the Act as adopted in 1917.

These adoptions have all been incorporated into the table showing the Uniform Acts that have been adopted by the various states, which is contained on pages 29-37.

The following Acts were approved and recommended to the Legislatures:

Uniform Arbitration Act.

Uniform Written Obligations Act.

Uniform Inter-Party Agreements Act.

Uniform Joint Obligations Act.

FORMER OFFICERS OF THE CONFERENCE

1892-94

Chairman—Henry R. Beekman, New York.

Secretary—Frederic Jesup Stimson, Massachusetts.

Chairman, Executive Finance Committee—Henry R. Beekman, New York.

1895-96

Chairman—S. M. Cutcheon, Michigan.

Secretary—Frederic Jesup Stimson, Massachusetts.

Chairman, Executive Finance Committee—Henry R. Beekman, New York.

1896-97

President—Lyman D. Brewster, Connecticut.
Vice-President—Peter W. Meldrim, Georgia.
Secretary—Frederic Jesup Stimson, Massachusetts.
Assistant Secretary—Albert E. Henschel, New York.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1897-98

President—Lyman D. Brewster, Connecticut.
Vice-President—Charles M. Campbell, Colorado.
Secretary—Frederic Jesup Stimson, Massachusetts.
Assistant Secretary—Albert E. Henschel, New York.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1898-99

President—Lyman D. Brewster, Connecticut.
Vice-President—David L. Withington, California.
Secretary—Frederic Jesup Stimson, Massachusetts.
Assistant Secretary—Albert E. Henschel, New York.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1899-1900

President—Lyman D. Brewster, Connecticut.
Vice-President—David L. Withington, California.
Secretary—Albert E. Henschel, New York.
Assistant Secretary—J. Moss Ives, Connecticut.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1900-01

President—Lyman D. Brewster, Connecticut.
Vice-President—E. W. Saunders, Virginia.
Secretary—Albert E. Henschel, New York.
Assistant Secretary—J. Moss Ives, Connecticut.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1901-02

President—Amasa M. Eaton, Rhode Island.
Vice-President—William A. Ketcham, Indiana.
Secretary—Albert E. Henschel, New York.
Assistant Secretary—J. Moss Ives, Connecticut.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1902-03

President—Amasa M. Eaton, Rhode Island.
Vice-President—Robert W. Williams, Florida.
Secretary—Albert E. Henschel, New York.
Assistant Secretary—J. Moss Ives, Connecticut.
Chairman, Executive Finance Committee—W. L. Snyder, New York.

1903-04

President—Amasa M. Eaton, Rhode Island.

Vice-President—W. O. Hart, Louisiana.

Secretary—Albert E. Henschel, New York.

Assistant Secretary—J. Moss Ives, Connecticut.

Chairman, Executive Committee—W. H. Staaake, Pennsylvania.

1904-05

President—Amasa M. Eaton, Rhode Island.

Vice-President—Walter S. Logan, New York.

Secretary—Albert E. Henschel, New York.

Treasurer—Francis B. James, Ohio.

Assistant Secretary—J. Moss Ives, Connecticut.

Chairman, Executive Committee—W. H. Staaake, Pennsylvania.

1905-06

President—Amasa M. Eaton, Rhode Island.

Vice-President—Charles E. Shepard, Washington.

Secretary—Albert E. Henschel, New York.

Treasurer—Talcott H. Russell, Connecticut.

Assistant Secretary—Glendinning B. Groesbeck, Ohio.

Chairman, Executive Committee—W. H. Staaake, Pennsylvania.

1906-07

President—Amasa M. Eaton, Rhode Island.

Vice-President—John C. Richberg, Illinois.

Secretary—Charles Thaddeus Terry, New York.

Treasurer—Talcott H. Russell, Connecticut.

Assistant Secretary—Buchanan Perin, Ohio.

Chairman, Executive Committee—W. H. Staaake, Pennsylvania.

1907-08

President—Amasa M. Eaton, Rhode Island.

Vice-President—W. O. Hart, Louisiana.

Secretary—Charles Thaddeus Terry, New York.

Treasurer—Talcott H. Russell, Connecticut.

Assistant Secretary—Francis A. Hoover, Ohio.

Chairman, Executive Committee—W. H. Staaake, Pennsylvania.

1908-09

President—Amasa M. Eaton, Rhode Island.

Vice-President—Walter George Smith, Pennsylvania.

Secretary—Charles Thaddeus Terry, New York.

Treasurer—Talcott H. Russell, Connecticut.

Assistant Secretary—Francis A. Hoover, Ohio.

Chairman, Executive Committee, W. H. Staaake, Pennsylvania.

1909-10

President—Walter George Smith, Philadelphia.
Vice-President—Peter W. Meldrim, Georgia.
Secretary—Charles Thaddeus Terry, New York.
Treasurer—Talcott H. Russell, Connecticut.
Assistant Secretary—Francis A. Hoover, Ohio.
Chairman, Executive Committee—W. H. Staake, Pennsylvania.

1910-11

President—Walter George Smith, Pennsylvania.
Vice-President—J. R. Thornton, Louisiana.
Secretary—Charles Thaddeus Terry, New York.
Treasurer—Talcott H. Russell, Connecticut.
Assistant Secretary—M. Grunthal, New York.
Chairman, Executive Committee—W. H. Staake, Pennsylvania.

1911-12

President—Walter George Smith, Pennsylvania.
Vice-President—A. T. Stovall, Mississippi.
Secretary—Charles Thaddeus Terry, New York.
Treasurer—Talcott H. Russell, Connecticut.
Assistant Secretary—M. Grunthal, New York.
Chairman, Executive Committee—W. H. Staake, Pennsylvania.

1912-13

President—Charles Thaddeus Terry, New York.
Vice-President—John Hinkley, Maryland.
Secretary—Clarence N. Woolley, Rhode Island.
Treasurer—Talcott H. Russell, Connecticut.
Chairman, Executive Committee—W. H. Staake, Pennsylvania.

1913-14

President—Charles Thaddeus Terry, New York.
Vice-President—Rome G. Brown, Minnesota.
Secretary—Clarence N. Woolley, Rhode Island.
Treasurer—Talcott H. Russell, Connecticut.
Chairman, Executive Committee—W. H. Staake, Pennsylvania.

1914-15

President—Charles Thaddeus Terry, New York.
Vice-President—W. M. Crook, Texas.
Secretary—George B. Young, Vermont.
Treasurer—Thomas A. Jenckes, Rhode Island.
Chairman, Executive Committee—Eugene C. Massie, Virginia.

1915-16

President—William H. Staake, Pennsylvania.
Vice-President—Nathan William MacChesney, Illinois.
Secretary—George B. Young, Vermont.

Treasurer—Thomas A. Jenckes, Rhode Island.

Chairman, Executive Committee—Eugene C. Massie, Virginia.

1916-17

President—William H. Staake, Pennsylvania.

Vice-President—Stephen H. Allen, Kansas.

Secretary—George B. Young, Vermont.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Eugene C. Massie, Virginia.

1917-18

President—William A. Blount, Florida.

Vice-President—Andrew A. Bruce, North Dakota.

Secretary—George B. Young, Vermont.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Eugene C. Massie, Virginia.

1918-19

President—William A. Blount, Florida.

Vice-President—Hugh H. Brown, Nevada.

Secretary—Manley O. Hudson, Missouri.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Eugene C. Massie, Virginia.

1919-20

President—William A. Blount, Florida.

Vice-President—Hollis R. Bailey, Massachusetts.

Secretary—Eugene A. Gilmore, Wisconsin.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Eugene C. Massie, Virginia.

1920-21

President—Henry Stockbridge, Maryland.

Vice-President—George B. Young, Vermont.

Secretary—Eugene A. Gilmore, Wisconsin.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Nathan William MacChesney, Illinois.

1921-22

President—Henry Stockbridge, Maryland.

Vice-President—John R. Hardin, New Jersey.

Secretary—Eugene A. Gilmore, Wisconsin.

Treasurer—W. O. Hart, Louisiana.

Chairmen, Executive Committee—Nathan William MacChesney, Illinois.

1922-23

President—Nathan William MacChesney, Illinois.

Vice-President—Eugene C. Massie, Virginia.

Secretary—George G. Bogert, New York.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—George B. Young, Vermont.

1923-24

President—Nathan William MacChesney, Illinois.

Vice-President—Joseph F. O'Connell, Massachusetts.

Secretary—George G. Bogert, New York.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—George B. Young, Vermont.

1924-25

President—Nathan William MacChesney, Illinois.

Vice-President—Joseph F. O'Connell, Massachusetts.

Secretary—George G. Bogert, New York.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Jesse A. Miller, Iowa.

1925-26

President—George B. Young, Vermont.

Vice-President—Jefferson P. Chandler, California.

Secretary—George G. Bogert, New York.

Treasurer—W. O. Hart, Louisiana.

Chairman, Executive Committee—Jesse A. Miller, Iowa.

DATES AND PLACES OF PREVIOUS MEETINGS OF THE NATIONAL CONFERENCE

1. August 24-26, 1892, Saratoga Springs, New York.
2. November 15-16, 1892, New York City, New York.
3. August 31, 1893, Milwaukee, Wisconsin.
4. August 22-23, 1894, Saratoga Springs, New York.
5. August 26-27, 1895, Detroit, Michigan.
6. August 15-17, 1896, Saratoga Springs, New York.
7. August 23-24, 1897, Cleveland, Ohio.
8. August 15-17, 1898, Saratoga Springs, New York.
9. August 26-28, 1899, Buffalo, New York.
10. August 25-29, 1900, Saratoga Springs, New York.
11. August 19-20, 1901, Denver, Colorado.
12. August 25-26, 1902, Saratoga Springs, New York.
13. August 24-25, 1903, Hot Springs, Virginia.
14. September 22-24, 1904, St. Louis, Missouri.
15. August 18-23, 1905, Narragansett Pier, Rhode Island.
16. August 22-25, 1906, St. Paul, Minnesota.
17. August 22-24, 1907, Portland, Maine.
18. August 21-24, 1908, Seattle, Washington.

19. August 19-23, 1909, Detroit, Michigan.
20. August 25-29, 1910, Chattanooga, Tennessee.
21. August 24-28, 1911, Boston, Massachusetts.
22. August 21-26, 1912, Milwaukee, Wisconsin.
23. August 26-30, 1913, Montreal, Canada.
24. October 14-19, 1914, Washington, D. C.
25. August 10-16, 1915, Salt Lake City, Utah.
26. August 23-29, 1916, Chicago, Illinois.
27. August 29-September 3, 1917, Saratoga Springs, New York.
28. August 22-27, 1918, Cleveland, Ohio.
29. August 27-September 2, 1919, Boston, Massachusetts.
30. August 19-24, 1920, St. Louis, Missouri.
31. August 24-30, 1921, Cincinnati, Ohio.
32. August 2-8, 1922, San Francisco, California.
33. August 21-27, 1923, Minneapolis, Minnesota.
34. July 1-8, 1924, Philadelphia, Pennsylvania.
35. August 25-31, 1925, Detroit, Mich.

ACTS DRAFTED BY OTHER ORGANIZATIONS AND APPROVED BY THE NATIONAL CONFERENCE

In addition to the acts included in the foregoing table, the following acts, drafted by other organizations, have been approved by the National Conference:

- An Act Regulating Annulment of Marriage and Divorce; approved in 1907; enacted in Delaware, New Jersey, and Wisconsin.
- An Act Providing for Return of Statistics Relating to Divorce Proceedings; approved in 1907; enacted in Louisiana (1908).
- An Act Providing for Return of Marriage Statistics; approved in 1907; enacted in Louisiana (1910).
- Federal Pure Food Law; approved in 1909; enacted in Kentucky and Louisiana.
- Federal Pure Food Law Amendment; approved in 1913.
- Standard Bill for Occupational Disease Reports; approved in 1914.
- Standard Bill for Industrial Accident Reports; approved in 1914.

ACTS DRAFTED AND APPROVED BY THE NATIONAL CONFERENCE WHICH HAVE BEEN DECLARED OBSOLETE OR SUPERSEDED*

- An Act Relating to the Sealing and Attestation of Deeds and Other Written Instruments; approved 1892. Obsolete.

*For the action of the National Conference concerning the above acts see Proceedings, 1920, pages 89, 90, 223-235; Proceedings, 1919, pages 71-74.

UNIFORM ACTS DRAFTED AND APPROVED BY THE NATIONAL
CONFERENCE, THE YEAR OF APPROVAL, AND THE NUMBER
OF JURISDICTIONS ADOPTING EACH ACT

Name	Year of Approval	No. of Jurisdictions Enacting
Acknowledgments Act.....	1892	9
Acknowledgments Act, Foreign.....	1914	7
Aeronautics Act.....	1922	10
Arbitration Act.....	1925	—
Bills of Lading Act.....	1909	26
Child Labor Act.....	1911	4
Cold Storage Act.....	1914	6
Conditional Sales Act.....	1918	9
Declaratory Judgments Act.....	1922	8
Desertion and Non-Support Act.....	1910	21
Extradition of Persons of Unsound Mind.....	1916	8
Fiduciaries Act.....	1922	9
Flag Act.....	1917	10
Foreign Depositions Act.....	1920	10
Fraudulent Conveyance Act.....	1918	14
Illegitimacy Act.....	1922	5
Interparty Agreement Act.....	1925	—
Joint Obligations Act.....	1925	—
Land Registration Act.....	1916	3
Limited Partnership Act.....	1916	14
Marriage and Marriage License Act.....	1911	2
Marriage Evasion Act.....	1912	5
Negotiable Instruments Act.....	1896	52
Occupational Diseases Act.....	1920	—
Partnership Act.....	1914	16
Proof of Statutes Act.....	1920	7
Sales Act.....	1906	27
Sales Act Amendment.....	1922	4
Stock Transfer Act.....	1909	18
Vital Statistics Act.....	1920	1
Warehouse Receipts Act.....	1906	48
Warehouse Receipts Act Amendments.....	1922	7
Wills Act, Foreign Executed.....	1910	8
Wills Act, Foreign Probated.....	1915	5
Workmen's Compensation Act.....	1914	2
Written Obligations Act.....	1925	—
Total—34.....		

- An Act Relating to the Execution of Wills; approved 1892 and again 1895. Adopted in Utah, with modifications, in 1907.
Superseded in 1910 by Uniform Foreign Executed Wills Act which is identical with the old act of 1895.
- An Act Relative to the Probate in this State of Foreign Wills; approved 1892 and again in 1895. Adopted in Massachusetts, Michigan, New York, Utah,* Washington, Wisconsin, Alaska.
Superseded in 1915 by Uniform Foreign Probated Wills Act.
- An Act as to Promissory Notes, Checks, Drafts, and Bills of Exchange (Day of Grace); approved 1892. Adopted in Indiana, Iowa, Maine, Philippine Islands.
Superseded by the Uniform Negotiable Instruments Act.
- A Table of Weights and Measures; approved 1892. Obsolete.
- An Act to Establish a Law Uniform with the Laws of Other States Relative to Divorce Procedure and Divorce from the Bonds of Matrimony; approved 1900.
Superseded in 1901 by the two following Acts.
- An Act to Establish a Law Uniform with the Laws of Other States Relative to Migratory Divorce. Adopted in Wisconsin.
- An Act to Establish a Law Uniform with the Laws of Other States Relative to Divorce Procedure and Divorce from the Bonds of Matrimony. Adopted in Delaware and Wisconsin.
- The last two acts are superseded by An Act Regulating Annulment of Marriage and Divorce, approved in 1907.
- An Act to Establish a Law Uniform with the Laws of Other States Relative to Insurance Policies; approved 1901. Obsolete.
- Compulsory Work Act: approved 1918. Obsolete.

LIST OF STATES SHOWING THE UNIFORM ACTS ADOPTED THEREIN

NOTE: The star (*) indicates that the Uniform Act has been adopted with modifications.

ALABAMA

Desertion and Non-Support Act (1915); Negotiable Instruments Act (1909); Warehouse Receipts Act (1915); Amendments to Warehouse Receipts (1923). Total, 4.

ARIZONA

Bills of Lading Act (1921); Conditional Sales Act (1919); Flag Act (1919); Foreign Depositions Act (1921); Fraudulent Conveyance Act (1919); Negotiable Instruments Act (1913); Proof of Statutes Act (1921); Sales Act (1913); Warehouse Receipts Act (1921). Total, 9.

ARKANSAS

Negotiable Instruments Act (1913); Stock Transfer Act (1923); Warehouse Receipts Act (1915). Total, 3.

CALIFORNIA

Bills of Lading Act (1915); Desertion and Non-Support Act, (1911); Foreign Depositions Act (1923); Negotiable Instruments Act (1917); Warehouse Receipts Act (1909); Amendments to Warehouse Receipts Act (1923). Total, 6.

COLORADO

Declaratory Judgments Act (1923); Fiduciaries Act (1923); Negotiable Instruments Act (1897); Warehouse Receipts Act (1911); Amendments to Warehouse Receipts Act (1923). Total, 5.

CONNECTICUT

Bills of Lading Act (1911); Negotiable Instruments Act (1897); Sales Act (1907); Stock Transfer Act (1917); Warehouse Receipts Act (1907). Total, 5.

DELAWARE

Aeronautics Act (1923); Conditional Sales Act (1919); Desertion and Non-Support Act* (1913); Fraudulent Conveyance Act (1919); Negotiable Instruments Act (1911); Warehouse Receipts Act (1917); Divorce Procedure Act of 1901; Annulment of Marriage and Divorce Act of (1907). Total, 8.

FLORIDA

Negotiable Instruments Act (1897); Warehouse Receipts Act (1917). Total, 2.

GEORGIA

Land Registration Act (1917);* Negotiable Instruments Act (1924) Total, 2.

IDAHO

Aeronautics Act (1925); Bills of Lading Act (1915); Desertion and Non-Support Act (1915); Fiduciaries Act (1925); Limited Partnership Act (1919); Negotiable Instruments Act (1903); Partnership Act (1919); Sales Act (1919); Warehouse Receipts Act (1915); Warehouse Receipts Act Amendments (1925); Workmen's Compensation Act (1917).* Total, 11.

ILLINOIS

Bills of Lading Act (1911); Cold Storage Act (1917); Desertion and Non-Support Act* (1915); Extradition of Persons of Unsound Mind Act (1917); Foreign Probated Wills Act (1917); Limited Partnership Act (1917); Marriage Evasion Act (1915); Negotiable Instruments Act (1907); Partnership Act (1917); Sales Act (1915); Stock Transfer Act (1917); Warehouse Receipts Act (1907). Total, 12.

INDIANA

Negotiable Instruments Act (1913); Stock Transfer Act (1923); Warehouse Receipts Act (1921). Total, 3.

IOWA

Acknowledgments Act; Bills of Lading Act (1911); Negotiable Instruments Act (1902); Sales Act (1919); Warehouse Receipts Act (1907). Total, 5.

KANSAS

Desertion and Non-Support Act (1911); Foreign Executed Wills Act (1911); Negotiable Instruments Act (1905); Warehouse Receipts Act (1909). Total, 4.

KENTUCKY

Child Labor Act (1914); Federal Pure Food Act; Negotiable Instruments Act (1904). Total, 3.

LOUISIANA

Acknowledgments Act, Domestic (1920); Bills of Lading Act (1912); Divorce Statistics Act (1913); Extradition of Persons of Unsound Mind Act (1918); Federal Pure Food Act; Fiduciaries Act (1924); Flag Act (1918); Foreign Acknowledgments Act (1916); Foreign Depositions Act (1922); Foreign Probated Wills Act (1916); Marriage Evasion Act (1914); Marriage Statistics Act (1908); Negotiable Instruments Act (1904); Proof of Statutes Act (1922); Stock Transfer Act of 1902 (1904); Stock Transfer Act (1910); Warehouse Receipts Act (1908); Wills Act, Foreign Executed (1912). Total, 18.

MAINE

Bills of Lading Act (1917); Flag Act (1919); Negotiable Instruments Act (1917); Sales Act (1923); Warehouse Receipts Act (1917). Total, 5.

MARYLAND

Bills of Lading Act (1910); Cold Storage Act (1916); Extradition of Persons of Unsound Mind Act (1918); Flag Act (1918); Foreign Acknowledgments Act (1916); Foreign Depositions Act (1922); Foreign Executed Wills Act (1914); Fraudulent Conveyance Act (1920); Limited Partnership Act (1918); Negotiable Instruments Act (1898); Partnership Act (1916); Sales Act (1910); Stock Transfer Act (1910); Warehouse Receipts Act (1910). Total, 14.

MASSACHUSETTS

Acknowledgments Act; Bills of Lading Act (1910); Child Labor Act (1913); Cold Storage Act (1912); Desertion and Non-Support Act* (1911); Foreign Probated Wills Act of 1895 (1911); Fraudulent Conveyance Act (1924); Limited Partnership Act (1923); Marriage and Marriage License Act* (1911); Marriage Evasion Act* (1913); Negotiable Instruments Act (1898); Partnership Act (1922); Sales Act (1908); Stock Transfer Act (1910); Warehouse Receipts Act (1907); Wills Act, Foreign Executed (1911). Total, 16.

MICHIGAN

Acknowledgments Act (1895); Aeronautics Act (1923); Bills of Lading Act (1911); Flag Act (1923); Foreign Executed Wills Act (1911); Foreign

Depositions Act (1921); Foreign Probated Wills Act of 1895 (1911); Fraudulent Conveyance Act (1919); Negotiable Instruments Act (1905); Partnership Act (1917); Proof of Statutes Act (1921); Sales Act (1913); Stock Transfer Act (1913); Warehouse Receipts Act (1909). Total, 14.

MINNESOTA

Acknowledgments Act; Bills of Lading Act (1917); Fraudulent Conveyance Act (1921); Limited Partnership Act (1919); Negotiable Instruments Act (1913); Partnership Act (1921); Sales Act (1917); Warehouse Receipts Act (1913). Total, 8.

MISSISSIPPI

Child Labor Act* (1914); Desertion and Non-Support Act (1920); Flag Act; Negotiable Instruments Act (1916); Warehouse Receipts Act (1920). Total, 5.

MISSOURI

Bills of Lading Act (1917); Negotiable Instruments Act (1905); Warehouse Receipts Act (1913). Total, 3.

MONTANA

Acknowledgments Act;* Negotiable Instruments Act (1903); Warehouse Receipts Act (1917). Total, 3.

NEBRASKA

Negotiable Instruments Act (1905); Sales Act (1921); Warehouse Receipts Act (1909). Total, 3.

NEVADA

Aeronautics Act (1923); Bills of Lading Act (1923); Depositions Act (1921); Desertion and Non-Support Act (1923); Extradition of Persons of Unsound Mind Act (1917); Fiduciaries Act (1923); Foreign Acknowledgments Act (1917); Foreign Execution of Wills Act (1913); Foreign Probated Wills Act (1915); Illegitimacy Act (1923); Negotiable Instruments Act (1907); Proof of Statutes Act (1921); Sales Act (1915); Warehouse Receipts Act (1913). Total, 14.

NEW HAMPSHIRE

Bills of Lading Act (1917); Foreign Acknowledgments Act (1917); Fraudulent Conveyance Act (1919); Negotiable Instruments Act (1909); Sales Act (1923). Total, 5.

NEW JERSEY

Annulment of Marriage and Divorce Act of 1907 (1907); Bills of Lading Act (1913); Conditional Sales Act (1919); Declaratory Judgments Act (1924); Desertion and Non-Support Act* (1917); Fraudulent Conveyance Act (1919); Limited Partnership Act (1919); Negotiable Instruments Act (1902); Partnership Act (1919); Sales Act (1907); Stock Transfer Act (1916); Warehouse Receipts Act (1907). Total, 12.

NEW MEXICO

Acknowledgments Act; Fiduciaries Act (1923); Illegitimacy Act* (1923); Negotiable Instruments Act (1907); Warehouse Receipts Act (1909). Total, 5.

NEW YORK

Bills of Lading Act (1911); Conditional Sales Act (1922); Foreign Probated Wills Act of 1895 (1919); Fraudulent Conveyance Act (1925); Illegitimacy Act (1925)*; Limited Partnership Act (1922); Negotiable Instruments Act (1897); Partnership Act (1919); Sales Act (1911); Stock Transfer Act (1913); Warehouse Receipts Act (1907). Total, 11.

NORTH CAROLINA

Bills of Lading Act (1919); Fiduciaries Act (1923); Negotiable Instruments Act (1899); Warehouse Receipts Act (1917). Total, 4.

NORTH DAKOTA

Acknowledgments Act*; Aeronautics Act (1923); Declaratory Judgments Act (1923); Desertion and Non-Support Act (1911); Illegitimacy Act* (1923); Negotiable Instruments Act (1899); Sales Act (1917); Warehouse Receipts Act (1917). Total, 8.

OHIO

Bills of Lading Act (1911); Negotiable Instruments Act (1902); Sales Act (1908); Sales Act Amendments (1925); Stock Transfer Act (1911); Warehouse Receipts Act (1908); Warehouse Receipts Act Amendments (1925). Total, 7.

OKLAHOMA

Negotiable Instruments Act (1909); Warehouse Receipts Act (1915). Total, 2.

OREGON

Negotiable Instruments Act (1899); Sales Act (1919); Warehouse Receipts Act (1913). Total, 3.

PENNSYLVANIA

Bills of Lading Act (1911); Conditional Sales Act (1925); Declaratory Judgments Act (1923); Depositions Act (1921); Fiduciaries Act (1923); Fraudulent Conveyance Act (1921); Limited Partnership Act (1917); Negotiable Instruments Act (1901); Partnership Act (1915); Proof of Statutes Act (1921); Sales Act (1915); Stock Transfer Act (1911); Warehouse Receipts Act (1909). Total, 13.

PORTO RICO

Warehouse Receipts Act (1919). Total, 1.

RHODE ISLAND

Bills of Lading Act (1914); Negotiable Instruments Act (1899); Sales Act (1908); Stock Transfer Act (1912); Warehouse Receipts Act (1908). Total, 5.

SOUTH CAROLINA

Negotiable Instruments Act (1914). Total, 1.

SOUTH DAKOTA

Aeronautics Act (1925); Conditional Sales Act (1919); Declaratory Judgments Act (1925); Depositions Act (1921); Extradition Act (1921); Flag Act (1923); Fraudulent Conveyance Act (1919); Illegitimacy Act

(1923); Limited Partnership Act (1925); Negotiable Instruments Act (1913); Partnership Act (1923); Sales Act (1921); Stock Transfer Act (1921); Warehouse Receipts Act (1913). Total, 13.

TENNESSEE

Acknowledgments Act (1919); Acknowledgments Act, Foreign, (1921); Aeronautics Act (1923); Cold Storage Act (1919); Declaratory Judgments Act (1923); Extradition of Persons of Unsound Mind Act (1917); Flag Act (1923); Foreign Depositions Act (1923); Fraudulent Conveyance Act (1919); Limited Partnership Act (1919); Negotiable Instruments Act (1899); Partnership Act (1917); Proof of Statutes Act (1923); Sales Act (1919); Amendments to Sales Act (1923); Stock Transfer Act (1917); Warehouse Receipts Act (1909). Total, 17.

TEXAS

Desertion and Non-Support Act (1913); Negotiable Instruments Act (1919); Warehouse Receipts Act (1919). Total, 3.

UTAH

Aeronautics Act (1923); Child Labor Act* (1915); Cold Storage Act (1917); Declaratory Judgments Act (1925); Desertion and Non-Support Act (1915); Fiduciaries Act (1925); Foreign Executed Wills Act* (1907); Foreign Probated Wills Act of 1895; Fraudulent Conveyance Act (1925); Land Registration Act (1917); Limited Partnership Act (1921); Negotiable Instruments Act (1899); Partnership Act (1921); Sales Act (1917); Warehouse Receipts Act (1911). Total, 15.

VERMONT

Aeronautics Act (1923); Bills of Lading Act (1915); Desertion and Non-Support Act (1915); Marriage Evasion Act (1912); Negotiable Instruments Act (1912); Sales Act (1921); Amendments to Sales Act (1923); Warehouse Receipts Act (1912); Amendments to Warehouse Receipts Act (1923). Total, 9.

VIRGINIA

Desertion and Non-Support Act* (1915); Land Registration Act (1916); Limited Partnership Act (1918); Negotiable Instruments Act (1897); Partnership Act (1918); Stock Transfer Act (1924); Warehouse Receipts Act (1908). Total, 7.

WASHINGTON

Bills of Lading Act (1915); Desertion and Non-Support Act; Flag Act (1919); Foreign Probated Wills Act of 1895 (1911); Negotiable Instruments Act (1899); Warehouse Receipts Act (1913). Total, 6.

WEST VIRGINIA

Conditional Sales Act (1921); Desertion and Non-Support Act (1917); Negotiable Instruments Act (1907); Vital Statistics Act (1921)*; Warehouse Receipts Act (1917). Total, 5.

WISCONSIN

Bills of Lading Act (1917); Cold Storage Act (1917); Conditional Sales Act (1919); Desertion and Non-Support Act (1911); Extradition of

Persons of Unsound Mind Act (1919); Fiduciaries Act (1925); Flag Act (1919); Foreign Acknowledgments Act (1915); Foreign Probated Wills Act (1915); Fraudulent Conveyance Act (1919); Limited Partnership Act (1919); Marriage and Marriage License Act (1917); Marriage Evasion Act (1915); Migratory Divorce Act of 1901; Divorce Procedure Act of 1901; Annulment of Marriage and Divorce Act of 1907 (1909); Negotiable Instruments Act (1899); Partnership Act (1915); Sales Act (1911); Sales Act Amendments (1925); Stock Transfer Act (1913); Warehouse Receipts Act (1909); Warehouse Receipts Act Amendments (1925). Total, 23.

WYOMING

Declaratory Judgments Act (1923); Desertion and Non-Support Act (1915); Negotiable Instruments Act (1905); Partnership Act (1917); Sales Act (1917); Warehouse Receipts Act (1917); Wills Act, Foreign Probated (1921). Total, 7.

ALASKA

Acknowledgments Act, Foreign (1915); Bills of Lading Act (1913); Conditional Sales Act (1919); Desertion and Non-Support Act* (1915, 1919); Extradition of Persons of Unsound Mind Act (1923); Foreign Depositions Act (1923); Foreign Executed Wills Act (1913); Foreign Probated Wills Act of 1895 (1913); Limited Partnership Act (1917); Negotiable Instruments Act (1913); Partnership Act (1917); Proof of Statutes Act (1923); Sales Act (1913); Stock Transfer Act (1913); Warehouse Receipts Act (1913). Total, 15.

DISTRICT OF COLUMBIA

Negotiable Instruments Act (1899); Warehouse Receipts Act (1910). Total, 2.

HAWAII

Aeronautics Act; Desertion and Non-Support Act* (1913); Negotiable Instruments Act (1907); Workmen's Compensation Act. Total, 4.

PHILIPPINE ISLANDS

Bills of Lading Act; Negotiable Instruments Act (1911); Warehouse Receipts Act (1912). Total, 3.

LIST OF ACTS SHOWING THE STATES WHEREIN ADOPTED

NOTE: The star (*) indicates that the Uniform Act has been adopted with modifications.

ACKNOWLEDGMENTS ACT

Iowa, Louisiana, Massachusetts, Michigan, Minnesota, *Montana, New Mexico, *North Dakota, Tennessee. Total, 9.

ACKNOWLEDGMENTS ACT, FOREIGN

Louisiana, Maryland, Nevada, New Hampshire, Tennessee, Wisconsin, Alaska. Total, 7.

AERONAUTICS ACT

Delaware, Hawaii, Idaho, Michigan, Nevada, North Dakota, South Dakota, Tennessee, Utah, Vermont. Total, 10.

BILL OF LADING ACT

Arizona, California, Connecticut, Idaho, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, Alaska, Philippine Islands. Total, 26.

CHILD LABOR ACT

Kentucky, Massachusetts, *Mississippi, *Utah. Total, 4.

COLD STORAGE ACT

Illinois, Maryland, *Massachusetts, Tennessee, Utah, Wisconsin. Total, 6.

CONDITIONAL SALES ACT

Arizona, Delaware, New Jersey, New York, Pennsylvania, South Dakota, West Virginia, Wisconsin, Alaska. Total, 9.

DECLARATORY JUDGMENTS ACT

Colorado, New Jersey, North Dakota, Pennsylvania, South Dakota, Tennessee, Utah, Wyoming. Total, 8.

DESERTION AND NON-SUPPORT ACT

Alabama, California, *Delaware, *Hawaii, Idaho, *Illinois, Kansas, North Dakota, Massachusetts, Mississippi, Nevada, *New Jersey, Texas, Utah, *Virginia, Vermont, Washington, West Virginia, Wisconsin, Wyoming, *Alaska. Total, 21.

EXTRADITION OF PERSONS OF UNSOUND MIND ACT

Alaska, Illinois, Louisiana, Maryland, Nevada, South Dakota, Tennessee, Wisconsin. Total, 8.

FIDUCIARIES ACT

Colorado, Idaho, Louisiana, Nevada, New Mexico, North Carolina, Pennsylvania, Utah, Wisconsin. Total, 9.

FLAG ACT

Arizona, Louisiana, Maine, Maryland, Michigan, Mississippi, South Dakota, Tennessee, Washington, Wisconsin. Total, 10.

FOREIGN DEPOSITIONS ACT

Alaska, Arizona, California, Louisiana, Maryland, Michigan, Nevada, Pennsylvania, South Dakota, Tennessee. Total, 10.

FRAUDULENT CONVEYANCE ACT

Arizona, Delaware, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, South Dakota, Tennessee, Utah, Wisconsin. Total, 14.

ILLEGITIMACY ACT

Nevada, *New Mexico, *New York, *North Dakota, South Dakota. Total, 5.

LAND REGISTRATION ACT

*Georgia, Utah, Virginia. Total, 3.

LIMITED PARTNERSHIP ACT

Idaho, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Wisconsin, Alaska. Total, 14.

MARRIAGE AND MARRIAGE LICENSE ACT

*Massachusetts, Wisconsin. Total, 2.

MARRIAGE EVASION ACT

Illinois, Louisiana, *Massachusetts, Vermont, Wisconsin. Total, 5.

NEGOTIABLE INSTRUMENTS ACT

Adopted in all jurisdictions except Porto Rico; adopted with modifications in Vermont. Total, 52.

PARTNERSHIP ACT

Idaho, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Wisconsin, Wyoming, Alaska. Total, 16.

PROOF OF STATUTES ACT

Alaska, Arizona, Louisiana, Michigan, Nevada, Pennsylvania, Tennessee. Total, 7.

SALES ACT

Arizona, Connecticut, Idaho, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Wisconsin, Wyoming, Alaska. Total, 27.

AMENDMENTS TO SALES ACT

Ohio, Tennessee, Vermont, Wisconsin. Total, 4.

STOCK TRANSFER ACT

Arkansas, Connecticut, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia, Wisconsin, Alaska. Total, 18.

VITAL STATISTICS ACT

*West Virginia, (1921). Total, 1.

WAREHOUSE RECEIPTS ACT

Adopted in all jurisdictions except Georgia, Kentucky, New Hampshire, South Carolina, Hawaii. Total, 48.

AMENDMENTS TO WAREHOUSE RECEIPTS ACT

Alabama, California, Colorado, Idaho, Ohio, Vermont, Wisconsin. Total, 7.

WILLS ACT, FOREIGN EXECUTED (Act of 1910).

Kansas, Louisiana, Maryland, Massachusetts, Michigan, Nevada, *Utah, Alaska. Total, 8.

WILLS ACT, FOREIGN PROBATED (Act of 1915).

Illinois, Louisiana, Nevada, Wisconsin, Wyoming. Total, 5.

WORKMEN'S COMPENSATION ACT

Idaho, Hawaii. Total, 2.

CONSTITUTION AND BY-LAWS

REVISED AND PRESENTED BY THE EXECUTIVE COMMITTEE, THIRTIETH ANNUAL CONFERENCE, AUGUST 19-24, 1920,
AND AS AMENDED IN 1923, 1924, and 1925.

ARTICLE I

Name and Object

SECTION 1. The organization effected by the Commissioners on Uniform State Laws, appointed by their respective states, shall be known as the "National Conference of Commissioners on Uniform State Laws."

SECTION 2. Its object shall be to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practicable.

ARTICLE II

Membership

SECTION 1. Its members shall consist of the Commissioners appointed by authority of the legislative body, or if there be no such authority, then by the executive authority, of the several states of the United States of America, to bring about uniformity of state laws, whose commissions give them authority to confer with Commissioners of other states of the United States.

SECTION 2. Where in any state no legislative authority exists for the appointment of Commissioners or the executive authority fails to appoint Commissioners to the National Conference, the President of the State Bar Association, recognized by the American Bar Association, shall have authority to appoint three Commissioners to serve for a term of three years, unless there shall be appointed in the meantime, under legislative or executive authority, official Commissioners from such state.

SECTION 3. Each Commissioner, upon his first attendance at an Annual National Conference of Commissioners on Uniform State Laws and on his reappointment, shall file with the Secretary of

the Conference the date of his commission, a statement of the term for which he is appointed and a reference to the legislative act or other authority under which he has been appointed a Commissioner.

SECTION 4. The membership of any Commissioner, appointed under legislative or executive authority or by the President of a State Bar Association, in the absence of such authority or failure to act, shall continue in the National Conference until the conclusion of the Annual Conference following the expiration of any such legislative, executive or State Bar Association appointment. If the term of office of a Commissioner expires before the conclusion of the next Annual Conference and another is appointed in his place, the outgoing Commissioner may continue to discharge his duties as a member of the National Conference, and have the full privilege of the floor during the Annual Conference next following, but he shall not have the right to vote.

ARTICLE III

Officers, Executive and Other Committees

SECTION 1. The following officers shall be elected at each Annual Conference for the year ensuing:

President, Vice-President, Treasurer, and Secretary. These officers, together with the Ex-President, whose term immediately preceded that of the present incumbent and the Chairman of the Legislative Committee, together with five (5) other members to be appointed annually by the President, shall constitute the Executive Committee.

The Executive Committee shall create a sub-committee of five members, of which a member of the Executive Committee shall be chairman, but the other members of which need not be members of the Executive Committee, to be known as the Committee on Scope and Program. This Committee shall recommend to the Executive Committee the work which the Conference should undertake and the general plan and scope of its activities.

No person shall be elected President for more than three successive terms.

SECTION 2. The following committees and sections shall be annually appointed by the President for the year ensuing and unless otherwise provided shall consist of seven members each.

1. Standing Committees:
 - A. Legislative
 - B. Public Information
 - C. Appointment of and Attendance by Commissioners
2. General Committees:
 - I. Legislative Drafting
 - II. Uniformity of Judicial Decisions
 - III. Cooperation with Other Organizations
 - IV. Cooperation with the American Law Institute
3. Special Committees as the National Conference may from time to time specially authorize.
4. Sections:
 - A. Uniform Commercial Acts Section
 - B. Uniform Property Acts Section
 - C. Uniform Public Law Acts Section
 - D. Uniform Social Welfare Acts Section
 - E. Uniform Corporation Acts Section
 - F. Uniform Torts and Criminal Law Acts Section
 - G. Uniform Civil Procedure Acts Section

The Special Committees of the Conference, having in charge the preparation of acts shall be grouped in the appropriate sections. Each section shall consist of not less than seven members nor more than eleven. There shall be a chairman of each section to be designated by the President whose duty it shall be to preside at all meetings of the section.

Each Committee shall consist of seven members unless otherwise determined by the Conference, the Executive Committee, or the President, one of whom shall be designated by the President as chairman of the Committee. The personnel of the Committees in a single section shall be the same as nearly as may be. If any section has sufficient acts to make it desirable, other members of the Conference may be assigned to special committees under that section.

A special committee may be assigned to a section but be independent of the section to the extent that its membership need not be identical with that of the section.

When a section meets for the consideration of acts prepared by the section committees the chairman of the committee having the particular act in charge shall present the act for consideration by his section and such chairman shall also have the act in charge when it is under consideration by the Conference in regular session or in committee of the whole.

The President may appoint such special committees with such number of members as he may deem advisable and assign them to a section, if properly so assignable. He shall report such action to the Secretary and to the Executive Committee.

SECTION 3. The terms of office of the President and other officers of the National Conference and of all chairmen and members of Committees, both General and Special, and Sections, shall continue until the conclusion of the Annual Conference following that at which they are elected or appointed, and until their successors are elected or appointed. In the event the term of office of a Commissioner expires before the conclusion of the next Annual Conference and another is appointed in his place, the outgoing Commissioner may continue to discharge his duties as an officer or as a member of a Committee, and have the full privilege of the floor during the Annual Conference next following, but he shall not have the right to vote. The new President and other officers and chairmen and committee members shall take office at the conclusion of the Annual Conference at which they are elected or appointed.

SECTION 4. A majority of members of any committee present at a National Conference shall constitute a quorum of such committee, but a majority of all members of a committee who may be present and registered shall constitute a quorum at any meeting not held during a session of the National Conference.

SECTION 5. The President of the National Conference shall be a member ex-officio of all committees, and the Chairman of each Committee shall advise the President of the time and place of meetings and shall communicate to him the results thereof.

ARTICLE IV

Duties of Members

It shall be the duty of the Commissioners from each state:

(a) At least thirty days before each Annual Conference to report to the Secretary of the National Conference the enactment of any laws or the filing of any judicial decisions in the state from which they are appointed, upon the subject of uniform legislation.

(b) To attend the Annual Conference of the Commissioners from the various states, or to arrange before each Annual Conference for the attendance of at least one Commissioner from their state at such National Conference.

(c) To report to the President of the National Conference the death or resignation of any Commissioner from their state.

(d) To secure the passage of acts, where such action has not been taken, providing for the appointment of Commissioners and for the expenses of the Commissioners from such state in attending the Annual Conference.

(e) To endeavor to secure from the legislature of their state an annual appropriation toward defraying the expenses of the National Conference of Commissioners on Uniform State Laws.

(f) It shall be the duty of the Commissioners from each state to organize their State Commission by designating a Chairman and a Secretary, and to notify the Secretary of the Conference immediately upon the organization of the State Commissioners; it shall be the further duty of the State Commissions to file with the President, Secretary, and members of the Executive Committee a copy of each and all of their reports to the Governors or legislatures of their respective states.

ARTICLE V

By-Laws

By-laws may be adopted, repealed or amended at any Annual Conference by a majority of the Commissioners present and voting, at any session following that at which the proposed amendment has been referred to the Executive Committee, provided such amendment receive at least fifteen affirmative votes.

ARTICLE VI

Annual Address and Reports

The President shall deliver, at each annual conference, an address on such subject as he deems fitting and shall also summarize such matters to be considered by the Conference as he deems advisable.

The topics mentioned in the President's annual address, relating to subjects pertinent to the work of the Annual Conference, and in his report, with his recommendations thereon, shall be referred to the Executive Committee for reference to the appropriate committee or committees and the Executive Committee and any committee to which such topics shall be referred shall report if practicable, to the Annual Conference then in session upon any such matters so referred.

The outgoing President shall also make a report to the American Bar Association upon the work and recommendations of the National Conference during the preceding year, the action taken thereon at the Annual Conference just closing, and request the endorsement by the American Bar Association of uniform acts finally approved and recommended by the National Conference for enactment by the several states.

ARTICLE VII

Annual Conference

Meetings of the National Conference shall be held annually at such time and place as shall be selected by the Executive Committee.

Those Commissioners present at each session of such National Conference shall constitute a quorum.

ARTICLE VIII

Adoption of Acts

Except when otherwise determined by a majority of the States voting upon the question and upon the affirmative vote of at least twenty states, any act before receiving the final approval of the National Conference with a recommendation for its adoption by the several states—

(1) Shall have received consideration section by section before the National Conference or in the Committee of the Whole;

(2) Shall have been printed with the amendments adopted at the first Annual Conference, at which consideration, section by section, is completed, and such further revision as the committee in charge of the act may desire, and shall have been distributed to the members of the National Conference;

(3) And shall have been presented to a subsequent Annual Meeting for such further consideration as the National Conference may desire to give it;

(4) If at any subsequent National Conference the act is not completed, but is recommitted to be considered at another National Conference, all amendments adopted shall be printed before the act is again presented for consideration.

(5) Before any act is voted on by states for final approval and recommendation to the states for adoption the same shall be printed, typewritten or mimeographed, as amended by the National Conference, and submitted to the National Conference at least one session before the final vote is taken.

(6) No act shall be finally recommended except by a majority of the states voting upon the question of recommendation, and upon the affirmative vote of twenty or more states. This Article shall be amended only by a like vote.

ARTICLE IX

Privileges

Former members of the National Conference may attend the Annual Meetings and participate in the discussions, but without the right to vote.

ARTICLE X

Construction

The word "state," whenever used in this Constitution, shall mean, a state, territory, organized or unorganized, or district of the United States of America.

ARTICLE XI

Amendments

Any article of this Constitution except Article VIII may be altered or amended, by a two-thirds vote, at any session following that at which the proposed amendment has been referred to the Executive Committee and at which at least thirty Commissioners shall be present.

BY-LAWS

Calling to Order

SECTION 1. The Annual Conference shall be called to order by the President, or, in his absence by the Vice-President, or, in the absence of both the President and Vice-President, by the Secretary of the National Conference.

Roll Call

SECTION 2. The Secretary shall call the roll of members by states and report the names of those present.

Officers

SECTION 3. The Conference shall, upon nomination of a committee appointed for that purpose, or by a direct vote of the National Conference, as it shall determine, elect a President, a Vice-President, a Treasurer, and a Secretary, who shall serve for one year or until their successors are elected.

The terms of office of all officers elected at any Annual Conference shall begin at the conclusion thereof, except that the outgoing President shall make the report upon the work and recommendations of the National Conference to the American Bar Association which it is provided the President of the National Conference shall make to the American Bar Association as ex-officio its Committee on Uniform State Laws.

No resolution complimentary to an officer or member for any service performed, paper read, or address delivered shall be considered by the National Conference.

A vacancy in any office occurring during an interval between conferences shall be filled by the Executive Committee.

Duties of Officers—President

SECTION 4. The President shall preside at all meetings of the National Conference. The President-elect shall, so far as possible, before the adjournment of the annual conference at which he is elected, appoint the various committees and sections provided by the Constitution or voted by the National Conference and make such assignments as may be necessary. He shall fill all vacancies in sections and committees when they occur, and shall designate chairmen of the sections and committees and assign special committees to appropriate sections, and arrange for a meeting of the sections and committees upon the final day of such annual conference.

Vice-President

SECTION 5. The Vice-President, during the absence or inability of the President, shall possess all the powers and perform all the duties of the President in his stead.

Treasurer

SECTION 6. The Treasurer shall receive all the funds of the National Conference and shall keep and disburse the same, under the direction of the Executive Committee. He shall give bond with a surety company as surety for the faithful performance of his duties, in such form and in such amount as may be from time to time required by the Executive Committee, and such bond shall be deposited with the President for safe-keeping. The premium on such bond shall be paid by the National Conference. He shall keep, or cause to be kept, regular books and full accounts, showing all the receipts and disbursements, which books and accounts shall be open at all times to the inspection of the President or any member of the Executive Committee. He shall report, at each Annual Conference as to the financial condition of the treasury, with a detailed statement of receipts and disbursements. All of the funds of the National Conference shall be kept in the name of the

Treasurer, in such depository as shall be designated by the Executive Committee. The Treasurer shall disburse such funds by checks signed by him but only on receipt of vouchers approved by the chairman of the Executive Committee, except that vouchers for expenses of the chairman of the Executive Committee shall be approved by the President of the Conference.

The fiscal year of the National Conference shall extend from July 1st to June 30th of the year following, inclusive, and the annual report of the Treasurer to the National Conference shall be of moneys received and disbursed between those dates. Not less than thirty days previous to each Annual Conference the Treasurer shall deliver his annual report with his books and vouchers and a certificate from the depository in which the funds of the National Conference are deposited, showing the amount to the credit of the Treasurer, to the Chairman of the Executive Committee, who shall cause the same to be properly audited by a certified public accountant and make a full report on the subject to the Executive Committee for such action as the committee may deem necessary.

Secretary

SECTION 7. The Secretary shall keep a record of the proceedings of the National Conference; an accurate roll of the officers and members of the National Conference with the dates of the attendance of each Commissioner, and the date and term of his commission. He shall issue notices of all meetings of the National Conference, in such form as shall be approved by the Executive Committee; and shall notify each member of the National Conference of the time and place of meeting of the Annual Conference; he shall notify the members of all committees of their selection and appointment; keep a record of the approval of the various acts in different jurisdictions, the date when approved and where the acts can be found; conduct the correspondence of the National Conference; report to the Executive Committee prior to the Annual Conference, a summary of his transactions during the year, and he shall perform such other duties as may be required of him by the National Conference, the President, or the Executive Committee.

All printing done on behalf of the National Conference shall be supervised by the Secretary under the direction of the Executive Committee. He shall have the custody of the books and papers of the National Conference, and be prepared to furnish copies of acts recommended for adoption to any member of the National Conference or to any one whose application has been approved by the Executive Committee. His books and papers shall at all times be open to the inspection of the Executive Committee, and he shall receive such compensation or allowance for expenses as shall be ordered by the National Conference.

He shall make a separate report of his receipts and disbursements and shall deliver it with his books and vouchers to the Chairman of the Executive Committee not less than thirty days previous to each Annual Conference. The Chairman shall cause the same to be properly audited by the certified public accountant selected to audit the Treasurer's accounts, who shall audit it in connection with the Treasurer's accounts, and the Chairman shall then make a full report on the subject to the Executive Committee for such action as the Committee may deem necessary.

If an Executive Secretary is appointed the Executive Committee may transfer to him any of the duties imposed upon the Secretary by this By-law.

Associate Secretary

SECTION 8. The Executive Committee may at or before the opening of each Annual Conference appoint from the membership of the National Conference an Associate Secretary who shall act during the sessions of such Annual Conference.

Executive Secretary

The Executive Committee may appoint an Executive Secretary, who need not be a Commissioner, and fix his salary or compensation. The Executive Secretary shall perform such duties as may be assigned to him by the Secretary or the Executive Committee. He shall be responsible to the Executive Committee but subject to the general oversight, supervision and direction of the Secretary.

Assistant to the Secretary

The Secretary, or Executive Secretary, if there be one, may appoint an assistant to assist him in the performance of his duties and to act for him in his absence with such compensation or allowance for his expenses as shall be determined by the Executive Committee.

Permanent Office

The Executive Committee shall have authority to establish a permanent office for the Conference and to change its location when advisable. All the records and archives of the conference shall be kept in such permanent office.

Section or Committee Meetings

SECTION 9. Special meetings of any section or committee shall be held at such times and places as the chairman of the section, to which said Committee is assigned may appoint, with the previous approval of the chairman of the Executive Committee, but the Committees not assigned to Sections may hold special meetings on the call of the chairman of such committees, with the approval of the Chairman of the Executive Committee. Reasonable notice of meetings shall be given to each member by mail.

The traveling and other necessary expenses incurred by any Committee or Section for meetings of such Committee or Section during the interval between annual meetings of the National Conference shall be paid by the Treasurer, on order of the Executive Committee and on approved vouchers, out of such appropriation as the Executive Committee may make on previous application therefor.

Order of Business

SECTION 10. At each session of the National Conference the order of the business shall be as follows, unless otherwise ordered by the National Conference:

1. Call of the Roll.
2. Reading of the Minutes of Last Meeting.
3. Address of the President.
4. Report of the Treasurer.
5. Report of the Secretary.
6. Report of Executive Committee.

7. Reports of Standing and General Committees in the order named in Article III, Section 2 of the Constitution.
8. Reports of Sections and Special Committees.
9. Unfinished Business.
10. New Business.

Motions and Resolutions

SECTION 11. (a) Motions and resolutions shall, on request of the Chair, be reduced to writing and be referred at once to the appropriate committee, unless otherwise directed by a majority vote of members present.

(b) All amendments to any proposed act shall be written out and signed by the Commissioner making the same, before being considered or debated, unless excused at the discretion of the Chair.

(c) When a question is under debate, no motion shall be received but:

1. To adjourn.
2. To take a recess.
3. To lay on the table.
4. To postpone to a certain day.
5. To commit.
6. To amend.
7. To postpone indefinitely.

These motions shall take precedence in the order in which they stand arranged. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon the reassembling of the National Conference unless otherwise determined.

(d) A motion to adjourn shall always be in order; such motion and a motion to lay on the table shall be decided without debate. A motion for recess, pending the consideration of other business, shall not be debatable.

(e) On any pending motion either in committee of the whole or in the National Conference, a Commissioner shall have the right to call for a vote by states, when each state shall be entitled to one vote, and if the Commissioners present are equally divided, such state shall have no vote; and in all cases of votes by states, the votes shall be recorded in detail.

Absence of Members of Conference

SECTION 12. (a) When any state having Commissioners shall fail to be represented at two consecutive Annual Meetings of the National Conference, the Chairman of the Committee on Appointment of and Attendance by Commissioners shall notify the Governor of said state of the absence of its Commissioners for such action as he may deem proper, unless the non-attendance has been excused by the National Conference.

(b) Where any such Commissioner shall be appointed under authority of the President of a State Bar Association and not under Legislative or Executive authority, then whenever such state shall fail to have been represented at any meeting, the President of any such State Bar Association shall be notified of any such non-attendance.

Reports of Committees

SECTION 13. A reasonable time before the annual meetings of the National Conference the chairman of each Committee shall submit a detailed report in duplicate of the work of his committee to the chairman of the section. The chairman of the section shall transmit the reports of the committees constituting his section together with a synopsis of said reports to the Secretary and to the President of the Conference in ample season to allow the printing and distribution thereof prior to the meeting of the National Conference. The chairmen of those Committees which are not parts of sections shall submit the reports of their committees to the Secretary and to the President of the National Conference sixty (60) days before the meeting of the National conference. The synopsis by section chairmen shall not be printed.

The Secretary shall call this by-law to the attention of the chairmen of all the sections and committees in ample season to enable them to comply with the provisions hereof.

All reports of committees containing any recommendation for action on the part of the National Conference shall be printed and, whenever legislation shall be proposed, shall be accompanied with a draft of the act proposed, which act shall have the lines

thereof numbered. No legislation shall be recommended or approved except upon the report of a committee, but no draft of a proposed act shall be submitted to the National Conference for its consideration or action until said proposed draft of an act has been considered in detail by the committee having it in charge at a session of said committee, such session to be held not later than the day preceding the meeting of the National Conference.

All reports of committees shall be in writing. No one, except the member of the committee making the report, shall be permitted to speak more than once on the subject matter of the report, nor have more than ten minutes until after all the Commissioners have had an opportunity to be heard.

Mode of Printing and Distribution

SECTION 14. All papers read before the National Conference shall be lodged with the Secretary. The annual address of the President, and his report to the American Bar Association, the reports of committees, and so much of the proceedings at the Annual Conference as the Executive Committee shall direct, shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Executive Committee. All acts for consideration of the National Conference shall be printed and the lines on each page consecutively numbered.

The Secretary shall send one copy of the report of the proceedings of the National Conference to the President of the United States, and to each of the Justices of the Supreme Court thereof, and to the Library of the State Department, the Library of Congress, and of the Department of Justice thereof, and to the Governor, and to the Chief Judge of the court of last resort of each state, and to the State Librarian thereof, to the Secretary of each State Bar Association, and to such other persons or bodies as the Executive Committee may direct.

Executive Committee

SECTION 15. The Executive Committee shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such an hour as the Chairman shall appoint.

It shall also meet on such other date or dates, and at such place and hour, as may be designated by the Chairman for a special meeting of said committee.

If, at any Annual Meeting of the National Conference, any member of the committee should be absent, the vacancy may be filled by the members of the committee present.

It shall be the duty of the Executive Committee to make all arrangements for the Annual Meetings of the National Conference, to provide for a stenographic report of the proceedings, and to attend to such other matters as may be from time to time referred to the committee by the National Conference.

The Executive Committee shall have full power and authority in the interval between meetings of the National Conference to do all acts and perform all functions which the Conference itself might do or perform, except that it shall have no power to amend the Constitution or By-laws or approve any Uniform Act or any amendment thereof.

Whenever, between meetings of the Executive Committee, the chairman of the Committee shall deem it necessary for the determination of any question, he may cause a vote to be taken by mail and such vote shall have the same affect as a vote of the Committee in session.

Legislative Committee

SECTION 16. It shall be the duty of the Legislative Committee to endeavor to secure the passage in each state, when such action has not been taken, of acts providing for the appointment of Commissioners, for an appropriation towards defraying the expenses of the National Conference, and for the expenses of the Commissioners from such state in attending the Annual Conferences; to secure the introduction into the legislature of each state, through the Commissioners of such state, of such of the uniform acts as shall not have been theretofore adopted by such state; and take such other or further steps as may be advisable or necessary to bring about the adoption by such state of such laws. The Committee shall report annually to the Conference and shall keep the President and Secretary informed of its activities.

Duty of Commissioners

SECTION 17. It shall be the duty of the Commissioners from each State to endeavor

(a) To procure the enactment by the legislature of their state, if possible, of an act giving legislative status to the Commissioners from such state.

(b) To procure the enactment by the legislature of the state of each and every act recommended by the National Conference and the Secretary shall furnish them with copies of the acts recommended, and assist the Commissioners in every way possible in co-operation with the Legislative Committee.

(c) To procure, if possible, an act for an appropriation for the National Conference and for the expenses of the Commissioners, in which effort they shall have the co-operation of the Legislative Committee, and where they shall fail to secure such an appropriation, they shall use their best endeavors to secure an appropriation from their state and local bar associations so that each state shall contribute its fair proportion to the expense of the National Conference.

Nominating Committee

SECTION 18. Prior to the annual session of the Conference a Nominating Committee to consist of five (5) members may be appointed by the President. The nominating Committee shall report on the third day of the mid-year meeting.

Mid-year Meeting

SECTION 19. The Executive Committee shall annually hold a mid-year meeting to be called by the President at such time and place as to him may seem proper. The President may designate the time and place where the sections and Committees may hold their meetings and no section or committee shall hold a meeting at any other time or place, except upon the approval of the chairman of the Executive Committee.

DRAFTING RULES AND SUGGESTIONS

PREPARED BY THE COMMITTEE ON LEGISLATIVE DRAFTING OF
THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNI-
FORM STATE LAWS IN ACCORDANCE WITH RESOLUTIONS
ADOPTED BY THE CONFERENCE IN SARATOGA, SEPTEMBER 1,
1917, AMENDED BY THE CONFERENCE IN CLEVELAND, 1918.

1. *Title*.—The title of the uniform acts shall be: An act concerning (or relating to). . . and to make uniform the law with reference thereto.

2. *Numbering of Sections*.—Sections shall be numbered by arabic figures, consecutively or progressively throughout the act. Schedules shall be numbered as sections.

3. *Length of Sections*.—(1) Long sections should be avoided. (2) Each proposition that is separable from other propositions should be placed in a separate section.

4. *Detaching of Clauses*.—Where one section covers a number of contingencies, alternatives, requirements or conditions, it is desirable to break up the section into detached paragraphs or lines distinguished by figures or letters.

Illustration.—Section 1 of Uniform Negotiable Instruments Act:

An instrument to be negotiable must conform to the following requirements:

- (1) It must be in writing and signed by the maker and drawer;
- (2) Must contain an unconditional promise or order to pay a sum certain in money;
- (3) Must be payable on demand, or at a fixed or determinable future time;
- (4) Must be payable to order or bearer; and
- (5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

5. *Definitions*.—Definitions should be placed at the beginning of the act, not at the end.

6. *Language*.—a. *Present tense*: The present tense should be used for descriptive matter, or matter stating a legal effect; the word "shall" should be reserved for requirements or prohibitions. b. *Unnecessary words*: The words "said," "such," "aforesaid," "whatever," etc., should as far as possible be avoided. c. *Provided*: The term "provided that" should be avoided.

PART II
PROCEEDINGS

First Session

The Statler Hotel, Detroit, Mich.

Tuesday, August 25, 1925, at 10 A. M.

President MacChesney called the Conference to order.

The Secretary called the roll.

MAYOR SMITH of Detroit: General MacChesney and Commissioners: It requires a brave soul, indeed, to appear before an Association of this kind to express the formal welcome of the City of Detroit. A long time back I thought that I wanted to be a lawyer and I attended law school for about four months, but after I had been there and been roundly chastised by the Professors, I decided that the law was not for me and I stepped out, and later on I decided that I would be a law-maker and I had the good fortune to be elected a State Senator. Of course, I've been trying to keep that quiet since I have been Mayor. I know something about the work that you gentlemen have been doing; in fact, I had the privilege of voting for one of the bills that was drafted and recommended by your Association, the Uniform Sales Law, which was passed by the Michigan Legislature in 1921.

I understand that this is the 35th Annual Meeting of your Association and that this is the second time that you have met in Detroit, and I am sure I am expressing that which is in the heart of every Detroiter, the gratitude of every Detroiter for your coming back here. Those of you who haven't been here since your last meeting will notice before you leave here that we have been spreading out, that we have gotten to be a somewhat larger city than we were when you were here the last time; in fact, we have doubled our population and doubled it again, and just recently we have been turning our attention to other things than jitneys. We expect within a very short time to put this country on the map in aviation, and it is very pleasing to me to know that you distinguished lawyers are studying what is so necessary, that is, legislation and laws to govern aeronautics. You know they call me

the flying Mayor because for the last seven or eight years, simply to prove, not because I like to fly but rather to prove that aeronautics are safe, I have been flying. I have been in the air three or four hundred hours, and I recognize the need for legislation to regulate aeronautics. On the outskirts of Detroit we have perhaps twenty fields where they are flying all kinds of machines and where anyone is permitted to take people into the air and they usually do drop them. Then too, we know that aviation, the development of aviation has been halted by the foolish stunt fliers, who insist for a little money at State fairs and other places in doing that which has done more to retard the development of aeronautics than any other thing that I know of. You know very well that Mr. Ford here has a line that sends ships each day to Chicago, one from Chicago and one from Detroit and another to Cleveland and back each day, and you ought to go out there and see those ships before you leave here.

Now Detroit has been signally honored by having this meeting here and the meeting that is to follow of the American Bar Association. We hope and know that your deliberations are going to mean much, not only to the people of Detroit but to the people of the nation. I want to extend to you again a very warm welcome to Detroit, and if there is anything we can do for you, officially or otherwise, if you call on us we will try and prove to you that we mean it. Thank you. (Applause.)

PRESIDENT MACCHESNEY: Detroit has gotten so great that it can afford to modestly state its claims, as the Mayor has done, and I am sure it will give us much more than it has promised.

It is now my pleasure to present to you, who will welcome us on behalf of the Bar, a man whom I have known for 25 or 30 years. We sat alongside of each other in the Law School when he was one of the famous debaters of this whole country, and he has given success to the promise that was then his at the Bar here. I take very great pleasure in presenting the Hon. Fred G. Dewey, President of the Detroit Bar Association, who will welcome us on behalf of the Bar of Detroit. Mr. Dewey. (Applause.)

Mr. DEWEY: Gentlemen of the Conference: Before coming into the meeting this morning I looked in the Handbook of the Con-

ference and I noticed that one of the early meetings was convened in Detroit exactly thirty years ago to-morrow. I don't need to say to you and, of course, it is a trite saying that time brings changes, but you will I am sure not take it amiss if I say to the younger members present and, in fact, to the greater number of you who are here, your presence here as august representatives of the various States on this Commission is very different than the appearance you would have made a generation ago. You were at best juniors then and nothing more. I remember very well the days referred to by Mr. MacChesney in his opening remarks, and another contemporary of ours at the University less than a generation ago was Mr. Ryall, as well as the august President of this assemblage himself. I have a very lively recollection of what those young men did in those days, and if I may refer to that far-off time a quarter of a century ago as the heyday of youth of those gentlemen, I hasten to add *summum bonum*. We are interested, as the Mayor has said, in the legislation. Thirty years ago you had under consideration a measure which was adopted the following year and which has since been made into law in every jurisdiction in the United States. I refer to the Negotiable Instruments Act; and year after year this legislation has grown. I take pride in calling your attention to the fact that if you will be so good sometime as to examine our Statutes, you will find that Michigan, with but one or two exceptions, had adopted more of the legislation recommended by this Conference than any other State in the Union. We are interested in aeronautics. Our leaders of commerce are interested in your proposal to make a workable arbitration act, and every citizen everywhere in the United States, I know, is interested in the unsparing and generous time which you give without compensation, unselfishly, to the dutiful service of the mistress of free men and women everywhere, the law.

We hope that your meeting may be successful. We think that Detroit, in view of the success of the measures which you have worked on here in times past, is an auspicious place in which to carry on your labors, and if you shall find time, as we hope you may, to indulge in some of the amenities which serve to make life more bearable than pleasant—and I don't mean the extreme ones referred to which were so popular a quarter of a century ago in

Detroit—why we should be very happy to join with you. In the name of the Bar of this community and in the name of the lawyers in the State of Michigan, I have the honor to bid you most heartily welcome.

The reading of the minutes of the last annual meeting was dispensed with.

President MacChesney then read his annual address.

(See pages 333-423 for this address.)

On motion of Mr. Sims voted to confirm the President's appointment of a nominating committee as to appointment and personnel.

The Secretary reported that he had no report except his financial report which was in the hands of the auditors.

(See pages 429-432 for this report.)

On motion the report of the Treasurer, which was in the hands of the Executive Committee, was received.

(See pages 433-440 for this report.)

On motion the report of the Executive Committee was received.

(See pages 441-445 for this report.)

On motion of Mr. Hardin voted that the President be authorized to appoint committees on memorials for deceased commissioners and arrange for a memorial service.

Judge Hargest presented the report of the Committee on Scope and Program and on his motion the recommendations therein contained were approved.

(See pages 455-456 for this report.)

Judge Bronson presented the report of the Committee on Education and Publicity, and on his motion the report was received but not ordered printed.

(See pages 578-581 for this report.)

Mr. Voorhees presented the report of the Legislative Committee, which was accepted.

(See pages 458-459 for this report.)

Mr. Hart presented the report of the Committee on Appointment of and Attendance by Commissioners. (See pages 476-480 for this report.) He also moved that the matter of appointment of Commissioners from the Canal Zone be referred to the Executive Committee. This motion was carried.

Dr. Freund reported that the Committee on Legislative Drafting had no report.

Vice-President O'Connell took the chair.

Judge Hargest presented the report of the Committee on Uniformity of Judicial Decisions. He also suggested that the collection of annual annotations of uniform laws by this committee be discontinued, because of the similar work now being done by the Edward Thompson Company in Uniform Laws Annotated. This subject was referred to the Executive Committee with instructions to report at this Conference.

(See pages 481-510 for this report.)

The recommendations in the President's address were referred to the Executive Committee.

Mr. Young presented the report of the Committee on Cooperation with other Organizations Interested in Uniform State Laws, which was received without reading.

(See pages 1028-1036 for this report.)

The hours of the sessions were fixed at 9:30 to 12:30 and 2 to 5:30. The Conference adjourned until 2 p. m.

Second Session

Tuesday, August 25, 1925, 2 P. M.

President MacChesney in the chair.

Professor Williston reported that the Committee on Cooperation with the American Law Institute had nothing to report.

Mr. HINKLEY: Mr. President, I desire to say a few things in regard to the two acts which will not require the further attention of the Conference. The Uniform Sale of Securities Act, very frequently known as the Blue Sky Act, will not be the subject of consideration at this Conference. Therefore, I desire briefly to state the present situation in reference to that act. The Committee at the 1921 Conference was charged with the duty of considering and preparing a Sale of Securities Act uniform for the different states, and they reported in 1922 three distinct types of acts, one being an act requiring the licensing of securities, which was the rule in a very large majority of the states, another being limited to licensing of brokers, as in Massachusetts and Rhode

Island, and another being simply an act devised for the purpose of preventing fraud, or stopping fraud when it is found to exist, such as the laws of New York, New Jersey and Maryland. It was the unanimous mandate of the Conference to the Committee that we should proceed along the lines of drawing an act providing for the licensing of securities to be sold. The Committee being thus charged submitted in 1923 a first tentative draft of a Uniform Sale of Securities Act, which was considered in detail by the Conference perhaps a little more than half through down to Section 7, as I recollect it. Some suggestions or corrections were made in the text and the act was referred back to the Committee. The Committee held a meeting and had some gentlemen appear before it, and they had the first tentative draft revised, that is, embodying the changes made at the meeting, printed on paper with wide margins and circulated to some extent, and after consideration they got up a second tentative draft, which was presented at the last Conference. It developed, however, that there was considerable question with regard to some of the provisions of the act on the part of the Investment Bankers' Association and to some extent from other organizations, and it was deemed wise at the last Conference to postpone action on the second tentative draft, which has never been considered by the Conference. In the latter part of February of the present year the Committee held a meeting in Chicago and had the pleasure of meeting a Committee of the Investment Bankers' Association, and discussing around the table a number of the provisions of our draft. The Committee has also been in touch with the Association of State Securities Commissioners—I think that's the proper title—a very important and influential body and representing practically the other side of the question, about which there was some difference of opinion. It was deemed advisable that the Committee of this Conference should defer action until the Conference between the Investment Bankers and representatives of the State Securities Commissioners had arrived at some solution of their difficulties. The main question, in fact, I may say the only question that remains to be solved is the question of making some reasonable provision for allowing a speedy sale or giving a speedy license to sell or permission to sell to a type of securities which are undoubtedly deserv-

ing of being placed on the market, coming from seasoned corporations and presented by brokerage houses of high standing, and it being desired that they should be placed on immediate sale simultaneously all over the country, and that is the difficulty, making some reasonable provision for that situation, and that is practically the only difficulty that prevents our being in a position to submit another draft of the bill. There was a conference between these two bodies at Chicago a couple of months ago—I think it was in the latter part of June or the early part of July—and I was invited to be present but, unfortunately, I was not able to attend. I saw, however, representatives of both parties, who were in my office a short time ago, and they say it is a reasonable expectation that they will be able to get together on a plan for covering this difficult provision of the act. Until that is done the Committee thought it advisable to report progress only this year, with the hope that they might at the next Conference be able to report a draft which would meet with the approval of both of these bodies.

The situation as to the Uniform Trademark Act was stated by the President, perhaps not exactly in the way I should have put it, but there was a distinct vote of the Conference on the recommendation of the Committee that further work on a Uniform State Trademark Act be deferred until the federal act had been passed, because we did not wish to work at cross purposes but only to supplement the federal act so far as that was limited to matters of federal cognizance, so that act is not strictly before the Committee at the present time but has been laid on the table, so to speak, with the expectation that it would be taken up again as soon as Congress had passed a new or a revised Federal Trademark Act, and after that time the Committee will undertake the supplementing of that act by a draft of a proposed uniform State Trademark Act, to be submitted to the Conference at a later time.

On motion of Mr. Hinkley the committees on a Uniform Sale of Securities Act and on a Uniform State Trademark Act were continued.

The Conference then went into Committee on the Whole for the purpose of considering the Uniform Arbitration Act, Mr. Evans of Kansas being in the chair.

Mr. O'CONNELL: Mr. Chairman and Gentlemen: The Uniform Arbitration Act has been referred back to us by the American Bar Association. As those of you who were here last year know, this act was passed out, after three years' deliberation, and recommended for passage in the various states, and also to the American Bar Association, asking on their part favorable action. A point of order, however, was raised against it by Mr. Julius Henry Cohen. Mr. Cohen, as a matter of history, is really the father of the proposition, as far as the present day is concerned. It is his pet child, and the action of this Conference did not please him.

As I have pointed out before, and as the Committee says, there are two schools of thought in this country in reference to the matter of commercial arbitration. First, the school that believes that laws concerning arbitration and the right to arbitrate should be confined to disputes that are already existing—that school is practically the school of the present and the past. As against that there is the school coming out of New York City which believes that a man has a right to agree in advance to arbitrate all disputes that may arise out of a contract that he enters into. The State of New York and the State of New Jersey have both passed laws to this effect. The federal Congress last winter joined with New York and New Jersey and also passed a federal act incorporating almost the wording of the New Jersey act. These three divisions of the law-making bodies of the land stand in one school and the rest of the country practically in another.

Now we discussed this matter at great length. The Committee held meetings with the merchants in New York and the following year in Chicago. The Committee were unanimous in the belief that it was unwise to recommend to this country the passage of any act which made it possible for a man to practically sign away his rights. The Committee felt that the passage of an act which permitted the incorporation into any contract that might be made of an arbitration clause which would leave a man in the position when a dispute arose of finding himself without the right to go to the courts, was unfair, if not positively dangerous, and in the wisdom of this organization, this Conference last year, it was decided—23 states voting in the affirmative and 6 in the negative—that the principle be confined to disputes that were already existing.

Now that has been recommended to the American Bar Association, but, as I said, on account of the point made by Mr. Cohen—and I understand it is the first time it was ever made, being a provision of the By-Laws of the American Bar Association by which reports that are to be considered must be printed at least 30 days in advance—that point having been raised, the point was sustained by the Chair and the matter re-referred back to us. So here we are again, and what our play should be is a question for you to decide. Personally, I believe that there is no further necessity for considering this subject, having considered it for three years, having gone into the matter very carefully, and in order to bring the matter to a head I move that the Committee approve of the act as it is now before us and adhere to the position which we took last year.

Mr. Moss: It seems to me that a different phraseology should be used in Section 16, Sub-section (b) of the act, on page 10 of the printed act. It says there in Section 16, "In any of the following cases the court shall after notice and hearing make an order vacating the award, upon the application of any party to the arbitration: * * * (b) Where there was evident partiality or corruption in the arbitrators, or either of them." "Either" should evidently be "any." "Either" is not the proper term for more than two; and it seems to me at the end of the section should be added the words "signing the award," so that corruption or partiality on the part of a minority arbitrator shouldn't oblige the court to vacate the award. As the language now stands it would. That is evidently not the intention of the drafters of the act. It seems to me it must necessarily be partiality or corruption on the part of one of the arbitrators signing the award.

Mr. O'CONNELL: We have followed in that section the language of several states, and, personally, I feel that the interpretation put upon it by the gentleman from Rhode Island is not at all proper. I don't believe it is open to the interpretation he puts upon it, because the arbitration and the award that it speaks about refers back in the other prior sections to the award which has been made by the arbitrators who had acted upon it. Naturally, this would then be construed along with the prior section and there

couldn't be much doubt. I doubt very much if any court would come to the conclusion that the gentleman leans to at the present time.

MR. BAILEY: Mr. Chairman and Gentlemen: There are a few things which ought to be called to the attention of the members of the Conference before a vote is taken. If you vote in support of the motion made by the Chairman of the Committee, which is to repeat the action taken last year, then it means that your Chairman next week will go before the American Bar Association at its meeting at the proper time, and ask the American Bar Association to approve the uniform state law on Arbitration which has been approved by the National Conference of Commissioners. Now the American Bar Association already on at least two or three separate occasions has approved the New Jersey form of arbitration as formulated and put in shape by the Committee on Commerce, Trade and Commercial Law of the American Bar Association. You are going to ask the American Bar Association, having committed itself to that form of an arbitration act, which has been, furthermore, adopted by the United States Congress since the 12th of February, 1925, and has been the law of the United States governing the federal courts, you are going to ask the American Bar Association to approve a state law entirely different, radically different, from what it has approved for the federal law of the land. Further, whether the American Bar Association will be willing to do that or not will depend upon the arguments made before it on one side by officers of the National Conference and upon the other by members of the American Bar Association who are not members.

Just a word more, the Chairman of the Committee has said there is a difference of opinion throughout the United States in the states represented here by the members of the Conference on this subject, but he didn't tell you that this is a matter of world wide consideration and has been for quite a number of years. The rule approved by the Conference, namely, that parties may not by agreement oust the jurisdiction of the courts by agreeing in advance to arbitrate, came to us from the English law, and the courts, I think, throughout the United States, until New York State took a new view, followed that rule of law. It was the law

in Massachusetts, it was the law in New York, it was the law in most of the states, but in England they changed all that. They said that that rule of law was ill conceived, and in England and France and, I think, in South America, the law now is that for arbitration you may agree in a contract to submit your differences to arbitration when they arise. The Chamber of Commerce in London, the Chamber of Commerce in France, and Chambers of Commerce outside of the United States have taken hold of this matter. Committees have agreed, outside of the United States, that the new English view of the matter is the proper one. Mr. Cohen, who has been mentioned, and myself are members of a Committee of the International Law Association which discussed this matter in South America in 1922. The matter has been discussed right along, and outside of the United States it is agreed that under the old law that you take away the right of contract of a person. The general rule is, the Constitution of the United States, freedom of contract is to be preserved, and this rule which grew up first in England and then in this country, that parties could not have freedom of contract in this matter because they were ousting the jurisdiction of the court, that is an exception to the general rule. Now it has been stated in the written report of the Committee that a large number of people don't approve of arbitration as a means of settling disputes, but I had that idea myself for a good many years. I have acted as Referee, arbitrator, and counsel, and have had some experience in the matter, but the last three or four years since I became a member of the Committee on Commerce, Trade and Commercial Law—Mr. Piatt, one of your members, is Chairman of that Committee; he isn't here and that's why I am speaking—I got a new light. Meeting in New York after the Committee on Commerce, Trade and Commercial Law had completed its sessions, we were invited to a gathering where there were a couple of hundred people present. A New York Senator from Mount Carmel was there, and among those people was Will Hayes, head of the motion picture industry of the United States. He said that in his industry the last two years they had settled something over two or three thousand cases by arbitration entirely to the satisfaction of all the parties and without any delay or expense. That was a good piece of business.

showing that the idea of arbitration as a means of settling disputes is growing. It is a part of the idea of arbitration as conceived in New York by the New York Chamber of Commerce and others that you will get not only speed but you will get an expert tribunal. The Chamber of Commerce in New York has a list of names of experts in electricity and all kinds of technical matters, ready to sit as arbitrators. I think they sit usually free of charge, so that you may have, instead of an inexperienced jury or a judge who is not acquainted with the subject, you will have a tribunal that knows all about the technicalities of the question, so that there is a fair argument to be made on both sides of this question as to which school of thought ought to govern, but the practical matter is, are you going to ask next week the American Bar Association to take back what it has done, which has resulted in an Act of Congress, and approve something, which is recommended here, entirely different. I don't suppose the American Bar Association will do that. I don't think it ought to be asked to do that. I think if you are going to pass the vote asked for by the Chairman of the Committee, you ought also to instruct Colonel MacChesney not to ask the American Bar Association to take any action on their part, because you certainly ought not to ask the American Bar Association next week to act differently from what it has been doing for two or three years, and it is to be noted that the Committee on Commerce, Trade and Commercial Law of the American Bar Association has not acted on its own authority year by year. What it has been doing and has done has always been approved by vote of the American Bar Association, and so you can't accuse that Committee of having exceeded its powers or having acted without authority.

Now that is a very brief statement, a very incomplete statement of the situation. I am not going to argue the thing on its merits. I have become converted to the idea that parties should have freedom of contract, and with this new idea, that arbitration is wanted by the commercial bodies of the country, by the business men of the country.

Now Massachusetts has been mentioned. As a Commissioner in Massachusetts, I suppose it was the duty of the Massachusetts Commissioners to go before the Massachusetts Legislature, after

the action last year, and ask them to adopt a uniform law, but knowing that the thing was still under debate and that there were two schools of thought, the matter was doubtful, and the Commissioners did not think it proper to take any proceedings as a body before the Massachusetts Legislature, but the Governor of Massachusetts, the present Governor, having attended some of these meetings which they have now every year of the Governors of the different States, got imbued somehow that the modern idea of arbitration was that which was embodied in the federal law, and that that was what the business men of the country wanted. Our present Governor is a large manufacturer of automobiles so he knows something about industry. So he wrote a special message to the Legislature, advising them to have the Massachusetts arbitration law similar to the New Jersey law and the New York law and the federal law, and the Judiciary Committee—he put it up to them so strongly that they felt bound to follow his suggestion. I believe he invited the Professor of the Harvard Law School, who is also a member here, to tell what he knew about the matter. Professor Williston is not a member of the Committee on Commerce, Trade and Commercial Law but he was invited to participate in the discussions of that Committee about this arbitration matter. He was fully informed about it and was able to tell the Judiciary Committee such things as they wanted to know, and they have in Massachusetts adopted an Arbitration Act not quite so good in form as the New Jersey law but still in substance the same as the federal law.

Of course, this is an independent body and it may do what it pleases; it may adhere to what it has done, but I think it would be unwise to expect or even to ask the American Bar Association to approve this year an act totally different from what it has approved two or three years previous.

PROFESSOR WILLISTON: I should only like to add one word more to what Mr. Bailey has said and that is—this is something which troubled me when this act was up before and I spoke of it then but it does seem to me to be one fact which ought to be known before a vote is taken. There wasn't any particular discordance in the law in regard to contracts to arbitrate existing disputes.

It has rather been assumed that this act will settle and make uniform differences in the law in regard to that. Although, as I say, there wasn't any particular difficulty in regard to that, it has also rather been assumed that the law was and is that all agreements in regard to arbitration of future disputes are necessarily invalid and will be invalid unless some law of this sort validates them. That is not true. The law in regard to the arbitration of existing disputes is in the very greatest confusion, but I suppose there is nowhere where it can be laid down as a general proposition that any stipulation in regard to the arbitration of future disputes is invalid. I don't believe that can be laid down as a broad proposition anywhere. Now what is disappointing to me in this statute is that it does not purport, does not endeavor to make uniform the only part of the law in regard to agreements for arbitration which is disputable and in confusion. It seems to me that something ought to be done, not necessarily making all agreements to arbitrate future disputes valid, but some attempt ought to be made to draw the line as to what agreements may be made as to certain future disputes, and as to what future disputes it may not, or some such agreement as our President proposed, an agreement in a separate paper so as to avoid taking by surprise. I, like Mr. Bailey, do not propose to argue this question, but it does seem to me important that before voting that not only the matters which Mr. Bailey has spoken of should be borne in mind but the fact that this Act does not make uniform the only part of the law in regard to arbitration which is in great confusion.

MR. SIMS: May I ask you a question? Did I understand you to say that in most of the states—you didn't say it but I understood you to imply it—in most of the states an agreement for arbitration of future disputes is illegal?

MR. WILLISTON: As to some future disputes; they usually draw a line as to the fixing of damages or some subsidiary matter. In England, before the passage of the statute which Mr. Bailey referred to, the law was, and it has some following in this country, that if you put it in the form of a condition precedent it was all right, that is, "I promise to pay you whatever Jones and Smith shall find due," is a perfectly valid contract, but "I promise to

pay you a fixed sum and Jones and Smith shall arbitrate any dispute that is between us," as a collateral stipulation, is invalid. Now that's a very undesirable distinction, substantially because you can put anything in the form of a condition precedent if you choose. As I have said before, an agreement to arbitrate the whole controversy, which is bad generally, and an agreement to arbitrate the amount of damages or whether the work has been well done, or as to any subsidiary matter of that sort, which is generally good, the line is very confused and very difficult to draw, and it is certainly not the same in different jurisdictions.

Mr. SIMS: Even if the disagreement should arise in the future, that would be valid?

Mr. WILLISTON: Yes, all that I have said is related to future disputes.

Mr. YOUNG: Mr. Chairman, I would like to ask if in the absence of this statute an agreement to submit to arbitration is revocable in most of the states up to the time of submission?

Mr. WILLISTON: Yes.

Mr. YOUNG: That would make that particular thing impossible by this act.

Mr. WILLISTON: That would cure that particular act. What I said a moment before was that the common law on present disputes is uniform. This will change a uniform common law in that one respect, and that, it seems to me, is the only value the act has, that it prevents a revocation of an agreement to arbitrate.

Mr. FREUND: Mr. Chairman, unfortunately, I was unable to attend the Conferences of 1923 and 1924 and, therefore, I have not had the benefit of the discussion on this Arbitration Act. Personally, I feel very strongly that my sympathies are with the wider theory, and with this act as it stands it hardly seems to me worth while to make the effort to go to the legislatures and have it passed because it doesn't seem to have in it very much that is new, but there is one point about which I feel somewhat puzzled and about which I would like to have some information, and that is Section 22 of the act, which says, "An appeal (or writ of error) may be taken from the final judgment or decree entered by the court." Does that mean that it is impossible to make an arbitration with

reference to an existing controversy in such a way that the decision of the arbitrator shall be non-appealable, and if so, is that the law of the majority of the states at the present time, and if not, do you not narrow very largely the scope of the present valid arbitration agreements? I understand, of course, that arbitration awards are appealable for fraud or for some matter that goes to the very essence of the thing, but to make a broad provision that any judgment entered by the court upon arbitration shall be appealable, it seems to me offers an appeal from a great many judgments that are now perfectly valid.

Mr. MILLER: Mr. Chairman, the section as it reads was agreed upon two years ago, and as I recall, it was not changed a year ago. The thought of the vast majority of the Commissioners was that an appeal should be allowed. As I personally construe it, the appeal is necessarily on questions of law and not on questions of fact.

Mr. FREUND: It isn't so expressed.

Mr. MILLER: Now the gentleman from Illinois suggests that it would be appealable in case of fraud. There is a provision here that it shall be vitiated in case of fraud. If he will turn to the preceding sections he will ascertain that the award may be set aside by the court, shall be set aside under certain conditions, and under other conditions it may be approved by the court, but the right to appeal or to take a writ of error from the final decision by the trial court was thought by the Commissioners to be in some cases necessary and in practically all cases advisable to give the right to appeal.

While I am on my feet let me say something about the act itself and what has been said by the Commissioners who have preceded me on the floor. One of the Commissioners says that this act does not give us very much that is new. It wasn't intended to give very much that was new but it was intended to make a uniform act which would be uniform in the several states, and it follows very largely the law of the states of the union. One of the Commissioners said that he doubted whether the American Bar Association would reverse itself. There is no occasion for the American Bar Association to reverse itself. It didn't pass on this act or any

act that is applicable to the states. All it had before it was an act which applied to a few limited subjects where the federal courts would have control, and there is nothing in what the American Bar Association has done which would run counter to what we now ask that it do, unless it be that the federal act does apply in certain instances and they are limited in the number of controversies which are to arise in the future. I do not know how familiar you are with arbitration. I fancy that many of you have had clients come to you with policies of insurance which contained provisions for arbitration, and in most of the states I think you will agree that the law is that the provision to arbitrate a future dispute is not enforceable because, as they say in Michigan, as they say in Iowa and as they say in other states, it ousts the court of jurisdiction. Now, what our friends in New York have tried to do is to by statute say that the courts shall not place their hand upon this agreement, if in the agreement it is provided that all disputes arising under it shall be arbitrated. In other words, if you adopt an act like unto the New York statute, the legislature provides that the court shall keep their hands off of the matter, and any of you that have had any arbitration cases and have arbitrated matters before laymen know that there are instances which arise where the courts should not be ousted of their jurisdiction, and that is especially true if you make a contract in advance and have one of the parties sign it without reading it. He is bound by the contract even if he doesn't read it, and when the controversy arises he must submit his controversy to arbitration, and the states that were represented here two years ago and the states that were represented here a year ago by the Commissioners then present, said that such an act as that would not be passed by their legislatures, and this act as it is presented here was supposed to be one which would be acceptable because it runs along the same channels as the laws on the statute books of practically all of the states. This act has been considered and it has been adopted by the Conference. Just why it was referred back at this time I do not know. I think it could have come before the American Bar Association at the coming session without any further action here, but my thought is this, it wasn't considered a year ago because of the objection of a man who is very much interested in tying people

up so they cannot get away from arbitration of future disputes, and when the objection was made it was acquiesced in. I think that this Conference should stand by this act as it has already been adopted and should present it to the American Bar Association at its coming session, and ask for the approval of the American Bar Association, and if the Association understands the situation I say that I believe they will approve the act which we have considered and which we have adopted.

MR. DIXON: Mr. Chairman, is it the idea of the Committee that if this act shall state that no arbitration that does not come within it shall be valid, say in those states where they uphold arbitration of insurance policies, the adoption by Alabama of this act would prohibit the arbitration of matters arising in the future by agreement? Is that the idea of the Committee?

MR. MILLER: I do not think it would affect it.

MR. DIXON: Why does not the Committee put in here that no arbitration is excepted.

MR. MILLER: I do not think that's necessary. The fact is that there has been in vogue in this country for many years what is known as common law arbitration, and where it is common law you obtain an award of the arbitrators, you go into court and you sue on that award. You bring a suit on it like they bring a suit on a promissory note, and you try it through a jury in many jurisdictions. Now this is a statutory arbitration, and where you have a statutory arbitration when the award is made it is filed and a motion is made for judgment on the award. The award is the same as the verdict of a jury, and the judgment is rendered and your legal questions at that time are considered on motion.

MR. O'CONNELL: Mr. Chairman, I don't like to have this controversy between the members of the Massachusetts delegation. It is very evident that the three of us are not in harmony. I don't know that any two of us are exactly in harmony, but as Chairman of the Committee I feel I ought to say a few things in reference to this matter just now and make this thing plain.

The New York act, which is followed by New Jersey and the federal act, means that arbitrators act in finality. There is no appeal from their decision in law or fact. In other words, the New

York proponents of this act say to us, "You lawyers get rid of the courts; your civil procedure is worthless. We few business men down here in Wall Street or the Chamber of Commerce know more than all the law makers that have written the laws that are now ours." They say to us, this small group, that law is worthless; they have challenged the profession. They have said to us, "You can't settle a contractual dispute but Tim Smith or Izzey Cohen, sitting together in the Chamber of Commerce, can gather together all the wisdom of that given subject and can settle it;" and then there is to be no appeal from what they do unless you catch them with the goods in fraud. Now that's all it amounts to. The world got along pretty well until Mr. Bernheimer, who was working in the Arbitration Committee of the New York Chamber of Commerce, felt that the law ought to be, in a measure, improved, and he enlisted the support of Mr. Julius Henry Cohen, and Mr. Cohen is a very able member of the New York Bar. He is indefatigable in his industry; he is very affable in his manner; he is assiduous in every way and a very attractive personality in all. Now then, Cohen and Bernheimer got together and they said to the New York Chamber of Commerce through its little Committee, "This law isn't complete. It doesn't give the Committee down here in the Chamber of Commerce the right to nail this thing down finally. We want a law so that when our Committee says that's the end of the dispute, that's the end of it." So they went to the New York Legislature, and Mr. Cohen, through the endorsement given by the New York Chamber of Commerce, was able to get through the New York Legislature the present law, which makes the action of the arbitrator of future disputes final in law and fact. Well now, that's very well and good, but how many of you gentlemen want to go back to your people and say that any corporation that they are doing business with can insert into any given contract a few lines, such as suggested by the last bulletin, which reads as follows, here is a model:

"Any and all controversies arising under or in connection with or relating to the agreement of which this is a part shall be submitted to arbitration, and judgment upon any award rendered may be entered in the highest court of the forum, state or federal, having jurisdiction in the premises."

That's the form that they advocate. Now it's all right; there is

no question but what a man has a right to enter into a contract but when a little clause like that is sneaked into a long written, closely worded, finely printed contract, what do you say and what would you say to the man who came to you with it and you had to pass upon that? You would immediately say, "Why, how did that sneak in there; who got that by? Is it possible that's the law of this land?" And yet it is the law of New York, the law of New Jersey, and it's the law that goes into federal contracts that apply in certain instances, because of the industry of these gentlemen in getting it by.

Now, as to my distinguished colleague who says that after many years he has been weaned away from the old truths and had followed the leadership of the new cult down in New York, I am sorry for him. I hope to win him back. I am going to do the best I can to show him the error of his ways.

Gentlemen, Chambers of Commerce aren't any organizations of mystery. Most of us belong to them. We all know that a great number of committees are appointed, and the Committee that has a given subject takes it up, and the secretary of the committee does all the work; and I venture to say that in this New York Chamber of Commerce that Mr. Bernheimer was the Chamber of Commerce. He made the motion; he passed it; he got the secretary of the Chamber of Commerce to put his approval on it and it went up to Albany. They went across the river after getting that done and they did the same thing in New Jersey. All the literature that has come out on this subject comes from the pen of Bernheimer and Julius Henry Cohen. I have tons of it. Now after passing it in those two states, they moved on to Congress. Well, there's a few of us who have had some Congressional experience and we know just how Congress works. Now, a bill gets in, and a man comes down from New York—it is only a five hour ride—and he can spend a day or two there. Then when the Committee has a meeting he entertains them; he talks entertainingly, he is plausible in his arguments; he gets the Secretary of the Committee pushing the bill up to the Chair—"This is a little thing that can get by." Well, it goes by. I talked with the Chairman of the Committee that brought it out last winter after it had gone by and none of us had been notified it had gotten by, and when I

pointed out what the situation really was and that this Conference had recommended an entirely different proposition and that the American Bar Association really had two Committees acting on the subject, he was amazed and if he could have taken it back he would have done so but, of course, the die was cast.

My good friend, Bailey, says, "Come down to Massachusetts"—the Governor, who is a business man, by some hokus pokus understood this very well. He fell for Bernheimer; he fell for Cohen, because they came down there with Judge Grossman of New York and the three entertained the State Board of Trade and the Governor happened to be there, and the Committee on Judiciary held a meeting, and everything was done to push it through. As a member of this Conference to whom this subject had been referred, I appeared before that Committee, called the Judiciary Committee's attention to the fact, and the Committee voted unanimously for leave to withdraw on the Bernheimer-Cohen Bill, but then they immediately got to the Governor, and, unfortunately, I went down to Palm Beach last winter and during my absence the bill was recalled from the Legislature at the insistence of the Governor and went through, but what they say is said in a very weak manner. They don't like it. The Massachusetts Judiciary Committee would not swallow that whole bill, and to their credit, even though the Governor wanted it swallowed, they insisted in putting into it a provision, such as is in most of the states of this union, namely, that the court shall have some jurisdiction in the matter and that the matter may be referred to the court if any of the parties want it or if all the parties want it, or if the arbitrators think it necessary. They have followed the English custom. Mr. Bailey says the English have gone into this matter. They have and they have done very well. The English Arbitration Act is entirely different from this proposed act of New York and New Jersey and the one on our federal statutes. In England the courts hold pretty tight rein on all these arbitrations. They encourage them, of course. They ought to be encouraged. Every judge should encourage litigants to see if they can't get together, and the English law provides that the arbitrators may have recourse to the courts where the parties may have some question that is troublesome. It is suggested to the court and submitted to

them, and then the arbitrators are bound, but New York, under Mr. Bernheimer and Mr. Cohen, don't want the courts to have anything to do with the matter. Now that's where we are differing. We don't, as a matter of principle, differ as to whether people can act in advance on these matters, but we say that it is perilous, it is dangerous, it is something that the American people shouldn't be threatened with, now that big business is getting into a condition where it writes its own contracts and you have got to take what contracts are given to you.

The gentleman from Alabama refers to insurance. All the great commodities of life are practically now in the control of men whose contracts you must take. Now, in Alabama, Illinois, West Virginia, or California, do you want to take a written contract in which there is a little clause sneaked in the middle there that any disputes in this contract shall be submitted to arbitration, and another little clause, "All arbitrations shall take place in New York and New Jersey?" And that's what the net result of it will be. I am pointing out now what I consider the practical difficulties in the passage of their law and why we should not follow it as intelligent men. We have given it some consideration. I am ready to confess I was swept off my feet by Cohen and Bernheimer the first year, but after talking with the rest of the conferees I have come back to my moorings, and I hope Mr. Bailey is going to come back in the same way. I want him to anyway, because I think the past is pretty sound and pretty safe.

Now, this doctrine of arbitration isn't anything new, as we point out in our committee report. On the statute books of pretty nearly every state in this union there are arbitration laws. How many lawyers here have had any arbitration matters submitted to them? How many American citizens do you know who are willing to give up the courts? What have we built up these magnificent structures for? Why have we educated in our schools, colleges and universities men to carry on and proclaim the law and find the truths and put them into practise? Somebody comes along now, as they did in Moscow and Petrograd, and says, "Cut down the courts. Let business men arbitrate. We don't want courts; we don't need them. A few men from the street know more about law." Now, there's a lot back of this thing. It is

either a notion on the part of Mr. Bernheimer and Mr. Cohen—and I am inclined to believe that's all it is; I am inclined to think it is much ado about nothing—or else it is something deeper than that. We haven't got the reason, and it hasn't been given to us why they are so insistent, this little small industrious group, in propaganda of this type. It is nothing but pure propaganda of the most intensive kind that we have been subjected to. The principle isn't discussed at all, but it's the small Board of Trade in Weehawken and in Newark and in Asbury Park that memorializes the Legislature in New Jersey. It is the little Board of Trade in Milford and in Saugerties and in Lynn that joins hands with the little committee from the Boston Chamber of Commerce and memorializes the Legislature down there, and the Boards of Trade that Mr. Bernheimer can make become interested in his subject that are memorializing Congress and loading down the Committee room with what they thought were messages from the people. Now the ordinary man in this country is with the courts. He wants the courts as his last resort. He wants to be certain that there's a citadel he can go to. He doesn't want the doors closed and forbidden to him. He doesn't want you to write into the statute books an article by which he can be subjected to the handicap of not going to the courts if he needs to. This is all this thing resolves itself into. It's a controversy between one school that wants to have some man uneducated in law, unversed in the traditions of the profession, unfamiliar with the doctrines that go into the law, to have him say finally just how a given controversy shall be decided. Against that we are submitting to you the law as it is in the law books of this country.

Professor Freund wants to know if such a clause as Section 22 was ever in before, or something to that effect. As a matter of fact, that is taken from the law of Illinois. I will quote from the law of Illinois, which says, Section 15 of the Act of 1893 (reading). That's the law of Illinois. Now your farmers out there and business men in Chicago came before our board at our meeting in Chicago two years ago and said they were pretty well satisfied. There is a digest of decisions that have come down in reference to arbitration act cases that have been heard out there, and Illinois is pretty well satisfied with the arbitration act she has got. Most of the

states of the union are satisfied with what they have got. People don't come here asking for a change; they haven't come any place asking for a change. The advocacy is confined, as I said twice before, to a small group of very industrious, very able and very clever gentlemen in New York City. I hope the action of this Conference last year will be sustained this year.

MR. GRAHAM: Mr. Chairman, I think Mr. O'Connell misapprehended the point made by Professor Freund. He did not object to Section 22, so far as it applies to Section 16 and the following sections, but do you think the language of Section 22 is sufficiently clear in its limitation to those sections? Might it not be understood to apply to the sections preceding Section 16, and if so, shouldn't the language be such as to limit it to that section and the following sections?

MR. O'CONNELL: It says from the order that's final.

MR. GRAHAM: "Entered by the Court." There is no limitation to that act. There is nothing to suggest that it applies to Section 16 and onward.

MR. O'MAHONEY: It seems to me that Section 22 is specific in that it is limited to the final judgment or decree entered by the court. There is only a certain specific kind of question that the court can pass upon, which are the questions outlined in Sections 14 and 16. As I understood it, Dr. Freund's question was whether an appeal might be taken from the arbitration directly. I think that the language is quite clear that it can be taken only from the action of the court, and since the action of the court may be taken only in accordance with Sections 14 to 16, it seems to me to be no question. While I am on my feet I should like to ask the Committee, it not having been my privilege to have been a member of this Conference before, whether it regards it as desirable or necessary that there should be in this act any provision respecting the payment of costs in a court action. An arbitration contract might provide for an equal distribution of the costs, but in the case of a defeated party taking a dispute into the courts would it then be necessary, does the Committee think, to make any provision in this act for the payment of costs by the defeated party?

Mr. O'CONNELL: We discussed that before, Mr. O'Mahoney, and it was the general opinion that the various states would cover any court action in each state.

Mr. HINKLEY: Mr. Chairman, I think it would be unfortunate if we should attempt at this stage to go too narrowly and too technically into the phraseology of the act unless there was some glaring error. There are bigger questions at stake, as the Chairman of the Committee has just pointed out. There are bigger questions at stake than the phraseology of the sections of this act, but I want to say on Section 22 that it doesn't present to me the slightest difficulty. I think it is conclusively answered by the proposition that the appellate court can have no further jurisdiction than the lower court has. If the lower court hasn't jurisdiction, the appellate court cannot have jurisdiction. The appellate court can only review and pass upon and affirm or find error in decisions that the lower court has jurisdiction to determine. It seems to me that's almost axiomatic when you say an appeal given from the decision of the lower court. That appeal necessarily is limited to things that were or could be or might have been before the lower court, and I don't see how it is conceivable for the appellate court to have jurisdiction to determine on its own judgment matters that the lower court could not have determined in the first instance. Unless the lower court has that power of determination the appellate court can't have it.

On motion of Mr. O'Connell the Committee of the Whole voted to recommend to the Conference that it reaffirm its action of 1924 in approving the Uniform Arbitration Act, as drafted by its committee.

The Committee then rose and reported its recommendation to the Conference, which approved the recommendation by the following vote:

Yes	Delaware
Alabama	District of Columbia
Arkansas	Florida
California	Georgia
Colorado	Idaho
Connecticut	Illinois

Yes

Iowa

Kansas

Kentucky

Louisiana

Maryland

Michigan

Mississippi

North Dakota

Ohio

Oklahoma

Rhode Island

South Dakota

Tennessee

Utah

Vermont

Virginia

Washington

West Virginia

Wyoming

Total: 30

No

Massachusetts

New Jersey

New York

Pennsylvania

Wisconsin

Total: 5

The President then announced the Committees on Memorials for deceased commissioners, and announced that the service would be held Friday at 5 p. m.

Mr. LONG: Mr. President, the Public Law Section desires to take up the five subjects that are presented for consideration in the following order: First, the Uniform Act for a Tribunal to Determine Industrial Disputes; Second, the Uniform Primary Act for Federal Officers; Third, the Uniform State Inheritance Tax Act; Fourth, the Uniform Public Utilities Act, and Fifth, the Uniform Act Governing the Use of Highways by Vehicles.

You have before you the printed report of the Section, giving the reasons why the Committee does not at this time present a Uniform Act for the Settlement of Industrial Disputes. The litigation involved in the Kansas Industrial Court Act is not yet concluded. There have been two decisions of the Supreme Court of the United States, in what is known as the Wolf Packing Co. case, as described in this report, and there is still another case pending in the Supreme Court of the United States known as the Dorscher case that has not yet been decided, and until that case is decided the Section does not feel that a draft of a bill should be presented for the consideration of the Conference. I therefore move you that the report of the Section relating to the bill for the

settlement of industrial disputes be received, and that the Committee or Section be permitted to further consider the question.

The motion was carried.

The Conference then went into Committee of the Whole for the purpose of considering the proposed Uniform Primary Act for Federal Officers, Mr. Graham being in the chair.

Mr. RYALL: The Committee wants to express its appreciation to the President of the Conference for the very happy choice of Chairman of the Committee of the Whole.

Now, gentlemen of the Conference, at the Minneapolis Conference two years ago a report was submitted by the Committee then having this sort of a bill in charge, and the result of that Committee action was that another Committee was appointed and put in charge of this work. That Committee reported at the Philadelphia Conference and that report is contained in last year's Handbook, 1924, and at that time the Committee reported to the Conference the summary of all the primary laws then in force in the United States and suggested that this matter presented not only some very serious problems of policy but also, perhaps, the very serious constitutional question of the right of the federal government to legislate on this subject. The Newbury case, which arose from this state and from this city, very largely left that question entirely at sea. You remember the court in that case decided—four on certain subjects, but finally five out of the nine members of the United States Supreme Court decided that the primary act passed by Congress with reference to the election of senators prior to the amendment, providing for the election of senators by popular vote, was unconstitutional. They did not have to pass upon the question of whether or not that sort of legislation might or might not now be valid. It at least left the question seriously in doubt, so far as federal action is concerned, and in view of that fact, in view of the fact that it is probably a matter for state legislation, this Committee felt that it was a proper matter for consideration by this Conference and did suggest in its report of a year ago that there were several points, at least, which could well be considered and covered by a uniform primary act, and those five points were as follows: First, a uniform date for

the holding of these primaries; second, that the primary election should be at some day between March 15th and May 1st, which, of course, is a part of the first suggestion that it be some uniform day; third, that all provisions requiring candidates to accept challenges to debate (reading).

That really resolves itself into four questions: The provision of a uniform day, the elimination of requirements for debate by candidates, the fixing of an amount of expenditures which would be uniform, and a party enrollment.

Now since this report was received a year ago and the Committee was directed to continue its efforts to bring before the Conference a bill, the Committee has submitted a report which contains a very rough outline of a proposed bill which attempts to cover these subjects. Frankly, this bill was drafted, and this matter is brought before this Conference, as I stated to the Committee shortly after luncheon, for the purpose of creating discussion. The Committee realizes that it is dealing with a type of subject that is probably unusual, in that it involves the whole question of the wisdom of the primary law as such, and it involves matters of parties and politics. On the other hand, it has been the sense of this Conference at its past and previous meetings, and I believe it is the sense of the Committee, that so long as we have this system, whether we like it or not, that it is a proper thing for us to do, to try at least to eliminate the serious objections which have arisen in connection with it. I don't know what a vote would bring out here on the question of the wisdom of the primary. I imagine it would be quite contrary to its adoption. Frankly, I haven't any doubt as to where the Chairman of this Committee would vote on this subject. I have no more love for it than some of the rest of you, but it is here and we feel that if this Conference can bring about two or three things which will eliminate some of the most serious objections to it, we have accomplished a real work. Now the first one would be to bring about a uniform date. There was a time in the history of this country when the presidential electors were elected on different days. I don't suppose there is anybody here who can remember that time. I can't, and I can't imagine as a younger man what it would mean for us to have a presidential election on a number of dates. At

any rate, we have come pretty well to the policy in this country that we should have a single day for the election of presidential electors, and this bill presents that as one of the things which can be done.

Now in connection with the report of this Committee is a criticism by Professor Charles E. Merriam of the Political Science Department of the University of Chicago. He is not a member of this Conference; he is, however, a nation-known authority on the primary election laws, and we were very happy, through President MacChesney, to secure his comments on this. They are largely adverse to the bill as it is presented, but that doesn't change our view of the value of his comments. We have also made a part of the supplemental report what I believe is about the latest and most thorough going investigation of the subject that I have been able to find. We gave you last year a statement of the various primary laws which affect this situation. This year in connection with the report is a splendid thesis prepared by Dr. Louise Overacker of the University of Chicago, and while it might be said that it is more or less academic, I want to call your attention to the fact that probably the greatest piece of political writing President Wilson ever did was his book on Congressional Government which he also wrote for his doctor's degree at Johns Hopkins University. This was written by Dr. Overacker for her doctor's degree at the University of Chicago. President Wilson said afterward he never wrote anything better. So we now have before the Conference a thorough discussion of the subject, and I think if the Conference is ever going to discuss the subject they, perhaps, are now as able to do it as at any other time. We, therefore, present for your consideration this bill, and what I hope to bring out as a result of this presentation is, first of all, the question of whether or not this Conference is going to definitely act on this subject or whether we are going to pass this aside and forget it, and if so, on what particular points does the Conference feel that the matter can be made uniform.

After some discussion of the wording of Section 1, Mr. O'Mahoney moved that the Committee rise and recommend to the Conference that the act be laid on the table.

PRESIDENT MACCHESNEY: I would like to say just a word with reference to this matter before a vote is taken on that motion. Some of you were in this Conference at the time this act was originally taken up in the first instance, and remember that there was some discussion about it. My observation has led me to believe that this act will be of the very largest value and of most importance in connection with the selection of the presidential and vice-presidential candidates, and if the act goes no further than that, and I do not know that there is any great need of it going further than that, it will be of very great value. Therefore, it does not seem to me that it is limiting the value of the act to strike out those references to officers who are selected wholly within a state. Perhaps I may be pardoned in this connection—I don't want to be regarded as a man of one idea—if I recall to some of you that I happen to have been the personal manager of General Leonard Wood when he ran for President of the United States. We were forced in that campaign, against our wishes, in order that General Wood might have a chance, to go into those states which have primaries and conduct an intensive campaign. The candidates before the Republican National Convention who controlled organizations and who were not depending on people for franchises, could sit back and pursue their campaign only in those states which did not have primary laws, but if we did not go into the states which had primary laws, we were in the position of not being able later to present General Wood's name. We went into those states, and the primaries were held from January until June, which made it necessary to start a campaign in November or October, as I remember it, which was not over until two days before the convention in Chicago. That made it necessary to maintain organizations over a period of something like nine months, scattered all over this country, from Maine to California. We spent in that campaign about \$1,400,000, as I testified before the United States Senate, and in my own state I spent something like \$290,000 in attempting to carry the primaries, of which somewhere between \$35,000 and \$50,000 was my own money. Now I want to say that as a result of that experience, I am not a believer in the primary laws now, although I have operated under them many years ago when I was a member of the Illinois Repub-

lican Central Committee of my state, but they were intended to meet the abuses of American politics and nominations by low grade bosses, but they have failed to do it in many states, and many people think they should be amended. Nevertheless, they are in effect and they have to be dealt with, and any man who is attempting to run for President of the United States, unless he is an organization candidate, is up against an impossible proposition. Furthermore, it puts a perfectly enormous expense upon a legitimate political organization that desires honestly to conduct a campaign, which is wholly unnecessary and I believe is subversive of the best interests of our republic. It tends to debauch the citizenship, even though the money is well spent. You have to conduct a campaign eight, nine, or ten months; and you have to maintain an enormous organization and spend an enormous amount of money. Furthermore, let me call your attention to the psychology of the situation. If you start a campaign of a modest small type in January, in order to attract attention in February you have got to increase the size of the type; you have got to have more important speakers; you have got to have larger meetings; you have got to have a more ostentatious display, and by the time you reach April or May before the national convention you are going at a killing pace and something that is costing an enormous amount of money. If you have a campaign which is set for any given date in March, April or May, you can start a campaign, say sixty days in advance of that and pursue a reasonable campaign with regard to the energies and the strength and the money to be expended and the public attention, and it is in every way a very great gain.

As to the other provisions, I remember very well that Senator Poindexter of Washington challenged General Wood for a debate under the law of South Dakota, and it was necessary apparently for General Wood to accept that invitation. Furthermore, in order that we might not lose the primary—the primary in that state came in February—we didn't dare lose that primary because of the effect it had on other states, and what was the result? The result was we spent altogether too much money, either for the good of the people or the party or the state, and why? Because no political candidate dared lose an early primary. Consequently,

Governor Lowden in that campaign went into South Dakota and spent \$70, \$80 or \$90, I don't know what it was, per capita for every man, woman and child in South Dakota, and God knows what we spent. It was bad for South Dakota, bad for us, bad for the Republican Party and bad for the nation. I say that that abuse ought to be done away with, so that you can ignore South Dakota, if South Dakota isn't important, and devote yourself to the crucial states. The only reason anybody paid any attention to South Dakota was because it was early. It was not important, and we ought to be able to devote ourselves to fighting things out on principle.

With reference to some of the other questions involved in this problem, I want to tell you that the requirement of a presidential candidate, like Mr. Coolidge, General Wood or Governor Lowden in that campaign was that they should either lose those votes and all that meant in the way of prestige or they should be subjected to going into that state and debating with some local candidate. Senator Poindexter was anxious to get the candidates out there and debate with them. Why should they be put in that position? Furthermore, he compelled the candidate, as a prerequisite to taking part in that primary, to make a statement—I remember helping to draft a statement with reference to certain reservations as to the League of Nations. Now that was a very inopportune time, nobody wanted to do it; it was a ruinous thing to do at that time but it was necessary to draft a reply as to our platform upon the reservations of the League of Nations, and yet Senator Poindexter forced Lowden and Wood into that position because he never had a Chinaman's chance of being President of the United States and the other man did, and it was done to harass and annoy the other candidates. It ought not to be permitted under the law.

There are a number of other questions with which this act and this Conference can deal and make a real contribution, not by spreading the primary system, not by encouraging the primary system, not by advocating the primary system, but by facing the fact that we do have primaries in something like sixteen states in which the Presidents of the United States are subjected to humiliating experiences, and we can iron out these difficulties that exist and give a primary act under which people can fairly and decently express their preferences.

Mr. WASHINGTON: Mr. Chairman, I was very much impressed by the remarks of the distinguished gentleman from Illinois. His remarks furnish absolutely conclusive proof that primaries for presidential electors should be abolished in every state of the union. Where is the money to come from, the enormous sums to which he alluded, in a presidential election? There is a growing sentiment in this country against primary elections to elect delegates to national conventions and presidential electors, and I would be slow as a member of this great body to furnish encouragement to the opposite view and throw an obstacle in the way of this march of public opinion in favor of wiping out these primary elections and in favor of the great national convention system which existed in the United States for more than forty or fifty years where each county and each state selected delegates to a state convention and that state convention named the candidates or delegates to the national convention and that convention named the presidential electors. Therefore, I think that this whole matter should be eliminated from our consideration and we should not go on record as furnishing a primary election to elect delegates to national conventions and presidential electors.

Mr. SHANDS: I am a new member of this Conference, and am very much impressed with the position taken by the gentlemen. It occurs to me that there should be no trouble in reconciling the differences. The situation as presented by Mr. MacChesney certainly appeals to me as unbearable and not for the good of the whole country. In my own state we, fortunately, so far have escaped having a primary election for the selection of delegates to a national convention, and I am heartily opposed to having any such primary and I think that is the sense of the people of my state, but it occurs to me that in those states that are so unfortunate as to have a primary election they should be regulated, and I think the whole trouble can be smoothed over if this bill be so limited as to make it apply in its caption and in the first section only to those states in which delegates are now under the state law selected by a primary election, and we will have no trouble resulting in those states who do not regulate and it will regulate the selection in those states that do.

Mr. DUTCHER: Mr. Chairman, I believe the deplorable situations described by the President ought to be cured but I have an entirely different idea about the remedy. I firmly believe that the fathers of our country, referred to by the President in his address this morning, founded on this continent a republican form of government and not a pure democracy, and I am opposed to the Conference going upon record as recommending to any state in this union any extension, any modification, any amelioration or anything that would make less tolerable any primary looking to the nomination of President or Vice-President of the United States. This Conference can take absolutely no action recommending any bill to anybody upon this subject without throwing into the scales the weight of its moral influence in favor of a presidential primary law. I am opposed to that for political reasons; I am opposed to it for the reason that I do not think it is within the legitimate scope of the activities of this Conference. The idea of starting out here to make uniform in the forty-eight states of this union a political piece of legislation which has been written upon the statute books of sixteen of the states is an undertaking that is not consistent with the obligations this Conference owes to promote the cause of uniform legislation. It's a political question, and we are here to deal primarily with legal questions, and I hope this Conference will not lend its moral influence by any recommendation of any law for a presidential primary. I am willing that they shall be just as intolerable as possible, in the hope that the states that have been short-sighted enough to adopt them will retract their legislation and come back again to a safe and sane method of leadership; real leadership, where leaders of the state, leaders of the community assembling in a convention choose their delegates.

Mr. O'CONNELL: Mr. Chairman, I am wondering if the Committee didn't leave out a very important word in the first line. As a Democrat I would like to inquire whether the troubles we are now confronted with are not due to the internal management of the Republican Party? I figure that it would be quite as well in this proposed draft to insert in the first section "a Republican primary election;" and then I was going to say, Mr. Chairman,—(interrupted).

Mr. DUTCHER: May I ask the gentleman a question? Practically isn't that all there is to any primary or election?

PRESIDENT MACCHESNEY: I would like to suggest that nobody attempts to reform a sinner unless there is some internal evidences of being capable of reformation.

Mr. O'CONNELL: I was going to say, Mr. Chairman, if the Committee would only address itself to some way of preventing a political party going hairy scarey, such as we Democrats did in Madison Square last Summer, there might be some worth in this particular act, but as it stands now I don't believe the Democrats ought to be called upon in this Conference to vote on this particular act. We don't know anything about these sins. We have no money; we fight for principle; we don't care what the results are (Laughter).

Mr. RYALL: From principle or habit?

Mr. O'CONNELL: Occasionally we drop the idea and get into a winning habit. We had it for fifty years before the Republicans were heard of. There was no money in those days, and it was rather a successful experiment in this nation; but, seriously speaking, gentlemen, I think that the troubles which money has brought on in the Republican Party ought to be addressed in a different way to the present. It doesn't seem we are going to cure any ills by proposing in this act such a situation that the great Democratic Party couldn't subscribe to. Anyway that being so, I second the motion of the gentleman from Wyoming, that the Committee now arise in order that the Committee may address itself to the political features of this question instead of attempting to deal with it in an abstract way, which never can be done.

Mr. TYLER: Mr. Chairman, two years ago this Conference had a Committee draft a Primary Act under exactly the same instructions that this Committee has been operating. I was a member of that Committee and Mr. Graham was our Chairman. After giving that matter—(interrupted).

CHAIRMAN: May I remind you of the rebuff we got for bringing in a report we had no authority to bring in.

Mr. TYLER: I was just going to mention that, sir. We reported to the Conference at Minneapolis that we did not regard it as a

wise thing for this Conference to put out any such act nor did we regard it as a fit subject for uniformity. Our Committee was of one mind, and when we made our report the President delivered—I say this wholly in a friendly way—a review similar to what we have just heard, and he prevailed upon the Conference to have a new Committee reconsider the matter and fired the whole bunch. I think the conclusion we came to at that time was wise and best.

Mr. SCHOETZ: Mr. Chairman, I come from a state that believes in a primary election law and I am heartily in favor of the motion that has just been made, to table this proposed draft, for the reason that we do not feel like being regulated from an organization or by an organization that is so unfriendly to the primary system.

Mr. O'MAHONEY: Mr. Chairman, if I am not wearying the Conference, I might say that this puts me in rather an embarrassing position. I do not feel that the evils of the Republican primary as described by our able President are necessarily inherent in the primary law. As a matter of fact, I think they are not, but I do feel, with the gentleman from Iowa, that this matter is wholly without the scope of this Conference. We are assembled to draft uniform laws. There are only sixteen states which have a law upon this subject. If we adopt here a recommendation with respect to the primary system, it will go forth over the country that the Conference on Uniform State Laws has endorsed the Presidential Primary system. I know the gentlemen here do not want that inference to go out, but, as a matter of principle, it seems to me that it should not be our effort at any time to pass upon a question of policy. If laws are adopted in the majority of states which are divergent, then it is our function to make them uniform, if we can, but certainly it is not within the scope of this Conference to endeavor to pass upon a question which has not been adopted by half of the states.

Mr. McDUGAL: I realize that one of the difficulties of this situation arises from the fact that many of the states do not have primaries for the selection of delegates to the national convention. I also realize the situation as expressed so forcibly by our President, and I move that all reference to primaries be stricken from this

act and that the first section be amended as follows: "All delegates to National Conventions held for the purpose of nominating candidates for the offices of President and Vice-President of the United States, shall be selected on the first Tuesday of April in each year." Then leave it to each state to select its delegates in any manner they may see proper. We will have then uniformity as to the time, and that's all that we want.

Mr. HART: I make a point of order. The amendment is not germane to the pending question, which is that the Committee arise.

CHAIRMAN: The point of order is well made. Are there any further remarks?

Mr. RYALL: I hope that this Conference will not adopt this motion. I can't help but feel that lurking back in the minds of the Commissioners is a confusion. First of all, I don't want it to go unquestioned that there are only sixteen states which have a primary election law for the selection of delegates. There have been twenty-five states which have adopted such a law since 1905. That's more than one-half of the states, so that this deals with a subject which is as broad as a great many subjects—I imagine quite as broad as the uniform milk can act which was proposed to be taken up this morning. There are a great many states in the union that have practically no dairying. It is probably broader in actual practice, in actual fact, than a large number of the acts to which we have given our consideration. It certainly deals with the most serious subject that the American people ever have to deal with, because there is no doubt but what we vest in our President the greatest power that to-day is vested for a fixed period of time in any ruler of any civilized nation. Our primary elections and our methods of selecting the delegates determine finally who shall be the President of this United States, so we are not dealing with a small subject. Now it is true that we have got out of our political organizing a child of which a great many of us are not very proud, but so far no one has had the courage to kill the youngster. If someone would commit murder, I think perhaps he would be able to get a great many attorneys to defend him without charge, but nobody will do it, and we have got that undesirable, misbehaved, homely youngster, called the primary law, in our political

family and we have to live with the animal, whether we like him or not. Now then, I submit that the gentleman who says that this will aid that and make that child a pattern to be followed in other families, is quite mistaken. We are trying to trim off some of its rough edges; we are trying to make this youngster somewhere nearly civilized. It is a confounded nuisance, so far as Mr. MacChesney tells us, in that it has contained provisions which so far are not fair to the presidential candidates, either from the standpoint of money or the standpoint of expense or the standpoint of their having to go about the country to join in these debates and other things of that sort. Now then, I submit that anything this Conference can do that will ameliorate the difficulty, that will lessen the difficulties which have arisen, is not a step in favor of the primary election law but is a step in the other direction, of finally getting back to some other method, or, at least, making the present method more bearable, and one thing that will do it is to set in April an election day on the same day throughout this United States for the selection of delegates to our national conventions. Every student of this subject has reached that same conclusion—there has been a great deal written on it—and I don't know anyone who hasn't come to that conclusion as one of the desirable things, not the only thing, but one of the desirable things. We are legislating on a subject of vast importance and of general importance, in that it is applicable, to a greater or less extent, in every one of twenty-five states in this union. It is not applicable, fortunately, in certain sections, and those states don't need to adopt it and probably never will adopt it, but if we are to have it at all, and in the states where we are to have it, let's make it somewhere nearly possible for high grade men who are desirous of filling office but who will not tolerate, who will not put up with the annoyance and expense which comes from our present system and our present situation. I think this Conference can deal to-day with, perhaps, the biggest subject that it has had to deal with in its history. We can deal with it on one basis, of just refusing to act, or we can deal with it in an intelligent constructive method. I submit, gentlemen, that this Conference can well afford to consider this matter, and consider it seriously, before they decide to give it no further attention at all.

Mr. CHILD: Mr. Chairman, it is a very easy matter to precipitately dispose of a proposition upon which there has been very much work done by the Conference, and that disposal is not always well considered. Now, this Committee has been before the Conference at two sessions. It was decided last year to go on with this report. It isn't a question, as just suggested by the Chairman, as to whether the members of this body are in favor of a presidential primary. The question is whether there are enough states interested in a presidential primary so that it would be of use to the states that want to adopt it. Minnesota adopted a presidential primary in 1913, the legislature of which I was a member. It was used once and then repealed. The presidential conventions since then and the primaries have been a joke, as compared with the number of people that take part in it and as to the way that it is conducted, in an unregulated manner. Irrespective of whether one is in favor of a presidential primary, it would seem that the time had come when the presidential nominations ought to be carried on with as much dignity as the state nominations, and nearly all states, I take it, have a regulated primary. Within my memory there was no regulated primary, and nominations in our state were by a mob. Now I think the suggestion of the Chairman should be considered, as to whether this is not a matter of enough dignity and of enough public importance so that this body can afford to frame, for the benefit of the states that want to adopt a primary law, a sane, consistent primary act; and these members who are talking about uniformity don't want to forget that we have passed by the point where the acts that we frame are ones that have a uniformity interest in all the states. We have become a law drafting body. There are no more Uniform Negotiable Instruments Acts to frame.

The roll call of states on the motion to recommend tabling was then had and the motion carried by the following vote:

Yes	Delaware
Alabama	District of Columbia
Arkansas	Florida
California	Georgia
Colorado	Illinois

Yes	Wisconsin
Iowa	Wyoming
Kansas	<i>Total: 27</i>
Kentucky	
Louisiana	<i>No</i>
Massachusetts	Idaho
Mississippi	Maryland
Missouri	Michigan
New Jersey	Minnesota
Ohio	Pennsylvania
Oklahoma	South Dakota
Rhode Island	Utah
Tennessee	Washington
Texas	<i>Total: 8</i>
Vermont	
Virginia	Connecticut, divided
West Virginia	

The Committee then rose and reported its action to the Conference, which approved such action and discharged the Committee on a Uniform Act for Federal Primaries.

The Uniform State Inheritance Tax Act was then brought up for discussion.

Mr. ARMSTRONG: Mr. President and Commissioners: When this Committee on a Uniform State Inheritance Tax Act was created and appointed, shortly after the mid-winter session of the Conference in Chicago, we realized at once that a very difficult task had been assigned to us. First, because of the involved and complicated nature of the subject with which we had to deal, and secondly, because the legislation which we would frame would be the first legislation in the history of this Conference, to my knowledge, which would affect the revenues of the states and modify, to a greater or lesser degree, the financial policy and system of the states. Any law on this subject which we may recommend will necessarily invite political discussion and controversy and, perhaps, serious political opposition, and so we realized it was necessary to proceed with an abundance of care and caution, which would, of course, involve time; and then, on the other hand, there was the

insistent demand which came from every part of the country, from individuals and organizations, demanding some relief from the intolerable evils which exist as a result of the lack of uniformity in legislation in the states dealing with the subject of inheritance taxation, and so a meeting of the Public Law Section was called and held in New York during April. At that time we considered as the basis of our work a model act on this subject which had been prepared for submission to the National Tax Association by a Committee of which Mr. Belknap, of Kentucky, was Chairman, and we went over that act section by section, made many changes and finally referred the whole matter with our recommendations to Mr. J. H. Fertig, of Harrisburg, who had been selected as the draftsman.

Now, gentlemen, before I bring to you the result of his work and indicate the lines along which he has proceeded, I want to say to you that last February there met in Washington a conference of delegates, appointed by the Governors of the different states, upon request of the National Tax Association, to consider this matter, and that conference authorized its President to appoint a Committee of nine members to deal with this subject and, if possible, to frame an act which might make uniform the legislation on this subject in the various states and throughout the country. I attended a session of that Committee, the first session, which was held in the City of Washington on the 2nd day of May, in order to become familiar with their views and with the attitude which they would take in dealing with and approaching this subject, and I was somewhat surprised to learn that they seemed to contemplate the continuance for a considerable period of time of the imposition of the federal estate tax and the preparation of a law which would provide for a collection of an estate tax, as I recall it, by the federal government, and a distribution of proportionate parts of the tax between the federal government on the one hand and the respective states on the other.

Now, in preparing the draft which we are going to submit to you this afternoon, we did not proceed along those lines because we are a Committee on a Uniform State Inheritance Tax and we are not taking into consideration the federal government or the demands

which the federal government shall make, so far as the preparation of the law itself is concerned. We do feel so long as the federal government continues to remain in this field of taxation, and to impose a tax upon the states that, perhaps, this Conference will not be in a position to act discreetly and intelligently in the adoption of any law which it may submit to the various states, but it is hoped by many of us—it is certainly the view of the President, and Secretary of the Treasury,—that the United States Government should abandon this field and allow it to be used exclusively by the states, and, therefore, our work will be carried on, with your approval, against the day when that consummation shall be arrived at and the states will be ready to consider this matter without any interference from the federal government.

Just a word, gentlemen, about some of the reasons which have created the demand for uniformity in legislation in this particular field. In the first place, great injustice is worked by the laws or the system which now prevails. As a simple illustration, in Maryland, the state where I reside, except in the case of a few designated corporations, no tax whatever is laid upon the transfer of the stock of corporations owned by non-resident decedents, whereas if Marylanders die owning stock in the corporations of other states heavy taxes are frequently laid, and that difference as between the residents of the different states should be removed. Those of you who have assisted in the closing of estates owning stocks in corporations throughout the country are, of course, familiar with the difficulties which accompany the payment of the tax levied by the different states, with the long questionnaires which must be filled out in detail, and with the delays which are frequently attendant upon that work. It has occurred in my own practise more than once that the estate has been called upon to lose heavily through the failure promptly to sell and transfer stocks because of inability to secure the necessary permits from states where the companies in question were incorporated. So, gentlemen, we have brought here to-day an act which has not been discussed in great detail by our Committee because we had no opportunity to do so but which will present to you the general principles which we think should be followed in the drafting of this very important and necessary law, and I now, with your permission, am going to

discuss very briefly what these principles are and give you some idea of the lines along which we have proceeded.

I assume you have copies of the act before you, and I am going to read merely one section of it to give you the scope which the act is intended to cover (reading).

Now, you will note, gentlemen, that it lays a tax upon the real estate and the tangible personal property within the taxing state of a resident or a non-resident, that it lays a tax upon the intangible personal property of the resident, whether in or without the state, and that it lays a tax upon the intangible personal property of a non-resident over which the taxing state maintains jurisdiction in these cases: Where the property is transferred by will or the statute of descents, and where it is transferred during the life of the owner in contemplation of death. Those are the principal cases. Certain others are here referred to, and I do not believe it is necessary for us at this time to discuss them.

Now, gentlemen, after laying down that general principle, the act proceeds to allow certain deductions, taxes, debts, expenses of administration, and then to grant certain exemptions in favor of the wife, in favor of the husband, in favor of the minor children, in favor of the brother or sister, in varying amounts, and then proceeds to fix the rates on which the tax shall be levied, upon the net value of the estate, after allowing for the deductions and exemptions. The act incorporates what is known as the New Hampshire flat rate plan in fixing the tax which shall be collected upon the stock of corporations owned by non-residents, and it lays, gentlemen, a 2% tax, that is the recommendation of the Committee, upon the market value of the stock that is so held. To illustrate: If a decedent in Michigan owned 100 shares of stock in a New York corporation, it would not be necessary to fill out long questionnaires involving the entire estate and send them to the proper officials in New York. It would simply be necessary to ascertain the market value of the particular stock in question, the New York stock, and then without regard to the deductions or exemptions, to pay a 2% tax to the proper authorities in New York upon the market value so determined. It has been demonstrated that in that way the necessary permits to transfer can be secured in the

short period of two or three days, and the delays which are incident to the system which now exists are in a large measure eliminated.

One of the most important features of this proposed law is to establish reciprocity as between the states, so far as intangible personal property of a non-resident is concerned, and no tax is laid by Pennsylvania upon the stock of a Michigander in a Pennsylvania corporation, if the State of Michigan extends the same courtesy of exemption to the people of Pennsylvania. In other words, wherever reciprocity is established, then this taxing is done away with entirely.

Those, I think, are the principal features of the act. The balance of the act is taken up with the question of administration. We have recommended a simple system of administration. The administration is conducted by some central agency, the State Tax Commissioner or the Secretary of State, or such other official as may be designated, but we believe the state can best look after this important matter of collecting taxes through someone representing it, rather than leaving these duties to be assigned to indifferent local officials, frequently controlled by friendships and other influences more or less improper.

Gentlemen, that is the report of the Committee in very brief outline. It indicates the principles which have guided us in our work. What the Committee now desires to know is whether you wish us to continue this work, and if so, whether the principles that have guided us so far are those which you wish to control our actions in the future.

Mr. LONG: In the absence of any questions for information in regard to this matter, I wish to state that as a member of the Committee in charge of this great and important subject, I wish to congratulate the Chairman of the Committee, Mr. Armstrong, and our draftsman on the progress that has already been made in the preparation of a bill. Of course, it is impossible to prepare a bill that is fair and just to all concerned until we know whether the Federal Government is going to withdraw from this field of taxation, or whether it is going to continue therein. There have been four inheritance tax laws passed during the life of our Government. They have all been war-time measures, and they have all

been repealed with the exception of this one. I happened to be in the House of Representatives and on the Committee of Ways and Means when we repealed the law that was passed during the Spanish-American War, but although this war was ended several years ago there seems to be a disinclination on the part of Congress to retire from this field and leave it where it always has been left, to the states. That question is up and until it is determined, it is my opinion that this Conference cannot agree or recommend an inheritance tax law that is fair to all. There are other agencies at work in this country. There is what is known as the National Conference on Inheritance and Estate Taxation. There is a copy of the proceedings of that Conference, held in Washington February 19th and 20th, 1925. They are giving a great deal of attention to this very important subject.

I move you, Mr. President, that this Committee be continued for the further consideration of this subject.

The motion was carried.

Mr. LONG: Mr. President, I present the following resolution: That the Committee on the Uniform State Inheritance Tax Act confer with the National Tax Association and National Conference on Inheritance and Estate Taxation with a view of co-operating with said Conference in the preparation of a Uniform Inheritance Tax Act.

The motion was carried.

Telegrams explaining the absence of Messrs. Newlin of California and McMahon of New York were then read.

The Uniform Public Utility Act was then taken up; and the Conference resolved itself into a Committee of the whole with Mr. Hogan in the chair.

Mr. SAWYER: Gentlemen of the Conference: I will briefly state how this matter comes before the Conference for fear that some of us may have forgotten it. The need of uniform legislation along this line was suggested some three or four years ago by the National Association of the Commissions of the different states of the union. That matter was called to the attention of the American Bar Association and to its Public Utility Section. That Section

took the matter up and appointed a Committee to draft a uniform act. That Committee reported at Philadelphia last year a tentative uniform draft on this subject, and they appeared before this Conference and asked that the Conference appoint a Committee to take this matter up. At that time they said they had not perfected their draft and expected in the fall to do that, and they met, as I understand it, the Council of the Public Utility Section and the Committee met last November and prepared a revised draft. That was submitted to the Committee of this Conference and is the basis of the work of this Committee. Mr. Guernsey and Mr. Jackson were two of that committee and very active in the preparation of the revised draft. One or two members, I think, of this Conference were also on the Committee of the Public Utility Section of the American Bar Association, and I would like at this time to have Mr. Guernsey of New York address the Conference.

MR. GUERNSEY: In the first place, I should like to say, what I have said pretty recently, and that is, while I have been presented here as Mr. Guernsey of New York, I am, in fact, Mr. Guernsey of Iowa. I was born in Iowa and lived in Iowa most of my professional life, and although I happen to be living in New York now, I belong West of the Mississippi River. I always feel that I ought to explain it, Mr. Chairman, because otherwise people won't understand me.

Now, it's pretty late and while I like to talk about things in which I am interested, I have often found that the people who have to listen don't enjoy it as much as I do, so I will have to make it short. The general question is all that I shall address myself to. I think if I can help you at all in the consideration of this act or proposed act, it will be along the line of furnishing a little background.

I have been brought into more or less contact with most of the commission laws in the country. I think that in almost every state there is a commission law which creates a commission having more or less jurisdiction. Sometimes they are elaborate; sometimes they are very informal, but it is very seldom that you don't find something. Now as I have read these laws, their scope has seemed to me to be this: There are certain very well recognized

rights that belong to the people who are the patrons of the public service corporations and to those public service corporations themselves. In the first place, everybody is entitled to good service. In the second place, everybody is entitled to immunity from discrimination; in the third place, everybody is entitled to reasonable rates. Finally, the service should be adequate, and by adequate I mean should be broad enough so that it is offered to everyone who wishes to take it, where the conditions are such as to make this economically possible. Now those rights, I think, have always existed. I think if you examine the existing commission laws, you will find that their scope is devoted very largely to providing the machinery for the prompt enforcement of these rights rather than to the creation of any broad or important fundamental rights in either of the parties. What the people are interested in, we think, is good service at reasonable rates. The other things, so far as the ordinary utilities are concerned—and I say the ordinary utilities because this proposed draft of a law excludes steam railroads and relates to them not at all—the other things, like discrimination, present very little practically for these commissions.

Now, the purpose of any commission law should, I think, be to provide the machinery for seeing that these four things that I mention—I think I mentioned four—are made available, should provide the machinery for securing good service, for securing reasonable rates, for securing the adequate extension of the service, and for securing freedom from discrimination as promptly and as economically as possible, with as little cumbersome and slow moving machinery as our experience will permit. That, I believe, was the underlying idea of the gentlemen who had the drafting of this law in mind. I know it was the underlying idea of the Committee who preceded them, of whom I happen to be a member.

Now there is one other thing that is well enough to have in mind if you want the background and the sound basis for the consideration of these questions, and that is this: There is a radical distinction between regulation and management. No commission law that I know of apparently intends to undertake the management of the public utilities. Sometimes when I have

stated this proposition, I have been confronted with the question, where are you going to draw the line? And I have said, frankly, usually I have been talking to a lawyer who could appreciate the force of the answer, I have said, frankly, "There will be cases where one thing will shade into the other and where, therefore, it will be difficult to draw the line, but," I said, "there is in the law a very marked distinction between negligence and due care;" and yet we all know that there are cases that are so close to the line that the courts say that if the facts are undisputed, whether or not there was negligence is a question for the jury, so that that needn't embarrass us. It is not only the settled law, because it is determined by numerous decisions, but I think it would be the settled policy, that the management of these concerns should not be undertaken by a public body which is not responsible for the investment and which is not familiar with the business, and which has not the incentive for good management that arises out of the fact that the record of the individual and the permanency of his employment will depend upon the efficiency in which his managerial work is carried out. That does not mean that there are not many things where the utilities are subject to the control of the commissions, but this control is a regulatory control. It is not an exercise of the function of management.

I shall not attempt to go over this act in detail. I understand that the gentleman here will present it in detail. If any questions shall arise in connection with the presentation of it where it is felt by your Committee that I or my associate can be of any service to you, I hope that you will call on us. I am very sure that we are too modest to say anything unless we are called upon. I think, gentlemen, that that is all I should say at this time. (Applause.)

Mr. SAWYER: Mr. Chairman, I would now like to ask that the Committee listen to Mr. C. D. Jackson. I will not introduce him as from New York but from Wisconsin, formerly a member of the Wisconsin Public Utility Commission. Mr. Jackson.

Mr. JACKSON: Mr. Chairman and Gentlemen of the Conference: My own connection with this subject arose when I was an officer of the National Association of Railway and Utilities Com-

missions. I may say that fundamentally, perhaps, what started that organization along the lines of trying to work out something of uniformity between the various states was, perhaps, the idea to—or, in the first place, there were several of the states and there still exists a small number of states which have not regulatory commissions regulating certain public utilities, like electricity, gas and water, and other utilities. They all, except Delaware, have commissions regulating railroads, and it was thought that a uniform law would greatly expedite and help the getting in of such a law of a regulatory nature in those states. Secondly, there was a feeling that if we could get uniformity as between the various states that there would be accomplished another thing, the preservation to the states themselves of the control over matters which are largely local and belong to the state, and doing away with any excuse for any federal regulation along those lines, interfering with local regulation. Thirdly, these commission regulatory acts had been in effect in some cases for twenty years and there had already developed a large uniformity in principle and even in language, so that it was a practical thing to try to work out a uniform law. Finally the work was started by a committee of this Association, which made a report. It never did draft a uniform act; they made a report which went before the Section on Public Utility Law, and that was used in connection with the work done by the Public Utility Law Section of the American Bar Association, and they studied it and made a report, which went to this Conference, and there is where the entire matter has been taken up by your Committee. I believe it to be the fact that your Committee agreed with the Public Law Section, in that the scope of the act should be kept within those bounds where a large degree of uniformity already existed in principle and in language.

It is a fact that in regard to the steam railroads there is not that uniformity, and it is entirely intertwined with federal jurisdiction in the Interstate Commerce Commission. The utilities which are covered by the act, as we went over it in the Public Utility Section, relate to electricity, gas, artificial heat, water, telephone, telegraph, interurban street railway, pipe line and motor public utilities, but does not cover the steam railroads, which is a tremendously complicated subject and in which there is not any-

thing like uniformity, and there are in many states a tremendous number of regulatory statutes which cannot be reconciled, so the scope was put within that basis and the Section confined itself to the utilities I have mentioned and confined the regulatory act to those principles which were necessary as a regulatory matter.

As you make progress in studying the report of your Committee, you will see how far the matter has been covered. The attempt has been made to cover every single regulatory function which is necessary for efficient regulation of the things which Mr. Guernsey has called your attention to. The act is, I believe, shorter than any comprehensive act which has been drawn up. I may state, because you may be interested in it, that when originally drawn at one time it contained 167 sections. It now contains about 60 and covers all of the matters that were originally in 167 sections. We have attempted on our part in trying to draw it up to get definitions that would make repetition unnecessary.

I do not think it is necessary for me to make any further statement in regard to the matter. The matter is in charge of your own Committee, which has given it a great deal of thought. I have made a special study of it, both as a Commissioner and since that time, and if there are any matters that come up where you think any of us can be of any assistance, I shall be glad to do my part. I think there is no subject where a greater public good can be accomplished than in perpetuating correct principles and uniformity in this matter of regulation. I thank you.

The Committee then rose, reported progress and asked leave to sit again, which was granted.

A revised program presented by the Executive Committee was then approved and the Conference adjourned until 9:30 a. m. on Wednesday, August 26, 1925.

Third Session

Wednesday, August 26, 1925, 9:30 A. M.

President MacChesney in the chair.

The Conference then went into Committee of the Whole for the further consideration of the Uniform Public Utility Act, Mr. Shoemaker in the chair.

The Chairman of the Committee introduced Professor Stason of the University of Michigan who prepared the introduction and annotations to the act.

Mr. STASON: I presume, Mr. Chairman, that I may and perhaps should make a few very brief introductory remarks with reference to several matters which occur to me. In the first place, I should like to repeat a little more fully that which Mr. Sawyer has just said with reference to my connection with the act. I received the act after it was fully drafted by your Committee and my duties consisted solely in the preparation of the report, the introductory remarks and the notes to the several sections. I found when I approached the task that there was a tremendous amount of material to assimilate. There are, I believe, 38 states that have utility laws of a general and broad character. I found that these laws contained a very large number of different provisions, and I found that the different states provided differently with respect to the different features of utility regulation. In short, I found a very great diversity both in the provisions of the acts and in the character of legal and judicial opinion concerning various features of public utility regulation.

In the notes to the several sections to the act, and in the introductory remarks as well, I have endeavored to show up and display these differences of opinion and these diversities, both in principle and detail, which are met with in connection with utility laws. I have, so far as possible in the time at my disposal, referred to the laws of the several states in connection with the corresponding sections of the uniform act. It is altogether possible that there may be an occasional error in connection with those notes. I wish to suggest this in advance, to avoid possible embarrassment later by having to make corrections that are suggested from the floor. I also am making these remarks with this in mind: Not having drafted the act it will not be possible in all instances for me really to explain all of the features and, perhaps, to justify all of the features. Not having sat with the Committee during the consideration of the act, I shall find it necessary from time to time to refer to Mr. Sawyer in order to answer your questions as they arise.

I wish to say also just a few words with reference to the purpose of utility laws. It was suggested yesterday that their function is primarily procedural, yet I would not have you think that the sole function of these laws is to perform what we usually think of as the function of procedural statutes. Those of us who are familiar with the practise in code states have a pretty definite idea as to what is a procedural act. The utility regulation is more than merely procedural. It serves to declare the common law with reference to the substantive rights of the utilities and the public concerning their relations to each other. They do more than that; they serve on occasion to amplify the common law provisions with reference to these substantive rights. To illustrate: We find in many of our jurisdictions laws relating to stock and bond issues, security issues of utilities. We find laws relating to the merger and sale and reorganization of utilities. We find laws relating to the issue of certificates of convenience to utilities. It, perhaps, is a fair statement to say that these features represent amplification of the common law substantive rights with reference to public utilities. Then, too, the utility act performs another function in connection with substantive rights as distinguished from procedural rights. It serves to clarify in many instances the common law substantive rights. Again to illustrate: It is a well established principle of the common law that a utility must render adequate service to its users, but what is adequate service? The common law left that in a decidedly uncertain state in a great many respects. One purpose, as I see it, of the utility act is to clarify the meaning of the term adequate service; so I say that these utility laws have a dual function, partly procedural, partly establishing the machinery for the proper administration of the substantive law, and partly to clarify, declare and even amplify the common substantive rights with reference to these problems. I have spent some time referring to that because I think it of importance in the consideration of this act.

Finally, I wish to say a few words with reference to a proposition, with reference to a note of warning which I feel should be mentioned at this time, although it is probably decidedly unnecessary to mention it in some respects. The law, with reference to the regulation of utilities, is young, is growing, and is in a formative

experimental stage. It is a developing feature of our public law. There are a number of matters of serious dispute that involve principles relating to the regulation of public utilities, and these matters particularly are in the experimental formative stage. Standardization or uniformization, if I may coin a word, has a tendency, I believe, to throttle experimentation. To illustrate: We have in this country a unit of measure called a yard. A yard is composed of 3 feet and 36 inches. There are 5,280 feet or 1,760 yards in a mile. It is a difficult unit of measure to deal with, yet it is standardized in Washington and the Bureau of Standards; we have a standard yard, and in spite of the efforts of certain scientists in this country to induce the adoption of the continental metric system, which is simple by comparison with our English system of measurements, it has been impossible to make progress because the yard is standardized.

I wish, perhaps presumptively, to suggest that the same thing is possible with reference to the regulation of utilities, and it is possible so to standardize as to stagnate development. Now it doesn't follow necessarily that it is improper to standardize, provided in the process of standardization the door is properly left open for proper developments in the field. I could illustrate by mentioning certain features of the utility laws that are in the category of developing principles at the present time. I might refer, for instance, to the stock and bond and merger laws of the country as an example. Perhaps that subject will be dealt with more at length later. I might refer to the situation with reference to the review of commission action. That is another subject on which we find much diversity of opinion with reference to matters of principle and the law, and opinion is in a formative, creative, developing state. I might refer to the much mooted question of valuation, which is in the same class.

I wish simply to make these remarks by way of introduction, and that is all that I care to say. I am ready, willing and able to do anything to help the furtherance of the consideration of the act.

Section 1 was tentatively approved.

Section 2 was taken up.

Dr. Freund suggested that no term for the original appointees was fixed.

Mr. Hammond objected to the requirement that the Senate approve the Governor's appointments.

Mr. Ailshie urged that provision be made for appointees belonging to different political parties.

Section 2 was tentatively approved.

Section 3 was approved without discussion.

Section 4 was approved after discussion of the heading.

Section 5 was adopted without discussion.

Mr. Bailey raised the question in whose name the process of the Commission would run.

After discussion of the advisability of having counsel to the commission or putting the duties on the Attorney General, Section 6 was approved.

Section 7 was approved, after discussion of the words "during its pleasure" and "issue subpoenas."

There were no objections to Section 8.

Sections 9 and 10 were tentatively approved without discussion.

Section 11 was approved, after a query whether one member of the Commission could exercise the powers of the Commission.

Mr. FREUND: Mr. Chairman, I suggest that the words "a municipality" be placed in brackets. There are a number of states that do not care to place municipalities in public service commissions.

Mr. ROSE: I think you ought to say "improvement district" instead of "lighting district." There are a great many improvements that come under (d).

Mr. FREUND: Mr. Chairman, does that fully cover all forms of power? Ordinarily the terms are light and power instead of electricity. Power may be furnished by steam. New York has a special provision for steam corporations, and, undoubtedly, you intend to include all forms of power. I wonder whether you do that if you just put electricity, gas and heat. I am not sure. Perhaps you do.

CHAIRMAN: Are there any amendments to (d) 1? If not, it is adopted.

Mr. Sawyer then read sub-section (d) 2, and there being no amendments it was adopted.

Mr. Sawyer then read sub-section (d) 3.

Mr. FREUND: I would like to inquire of the Committee what course it recommends to the Commissioners when they come to their state legislatures with reference to a situation where their existing public utilities cover common carriers as well as the other public utilities? You will have this situation: You recommend this act, and then they will ask, "What are you going to do with those parts of the act that relate to common carriers?" There ought to be some answer or some suggestion. Those acts are units, they are integral pieces of legislation, covering all forms of service, including common carriers. That is true of New York and Illinois. I don't know about the other states. If we submit this act, we must have some suggestion to make as to how to deal with the railroad situation in our state. I would like to know how this is proposed to be handled in the opinion of the Committee.

Mr. SAWYER: The National Association of Public Utility Commissioners have never deemed it advisable that there should be a Uniform Public Utilities Act which would attempt to regulate railroads. There is too much variance in the different states and it would be too great a problem and then, it is to a large extent involved by the Interstate Commerce Act, so we have been very careful in this act to exclude anything which could be construed as relating to the regulation or control over railroads.

Mr. FREUND: I can see that very well, but I inquire as to the situation which you will meet when you come to your legislature in Springfield and say, "Adopt this act." They will say, "How can we adopt it? We have another act which combines the two. You must submit two acts, not only one. You must segregate provisions regarding railroads and provisions regarding public utilities. Unless you do that we can't listen to the suggestion of adopting this act." Isn't that true?

Mr. STONE: Mr. Chairman, isn't the answer to Mr. Freund's suggestion that there must be a companion bill which covers railroads? Isn't that the only answer—that we should prepare a model railroad bill or common carrier bill to accompany this in

such states, but we can't do it all at once. This covers only public utilities and not including common carriers, and we will at a subsequent date have to do the other thing, it seems to me.

Mr. AILSHIE: Along the line suggested by the gentleman from Illinois, I want to suggest that in our state we have a Public Utilities Commission and the same act covers all these subjects, and it is so interwoven that this act here if submitted would be utterly useless to us unless at the same time we enacted a separate bill providing for the railroad situation. We have in our state railroads, both steam and electric, operating in different sections that are under the control of the Commission, and the provisions for controlling that, regulating it, are so interwoven among the provisions of the general utilities act, that we would be in the position where we would have to, as the gentleman from Kansas has suggested, we would have to have another act if we undertook to adopt this uniform act here proposed.

Mr. GRAHAM: It would be interesting to know how many of the states have a single commission for both the steam railroads and the other utilities. We ought to be able to ascertain that here. As the gentleman from Idaho has said, his state has but a single commission. In the smaller states, it seems to me, it would be a great grievance to divide this and to make necessary the creation of two Commissions with the additional expenses that are rendered necessary. I feel quite confident that any attempt to divide our Commission into two commissions and separate the steam railroads from the other commissions would be not even considered by our Legislature. It seems to me that the reason for that would be stronger in the smaller states on account of the expense connected with it. We have had a single commission so far back I can hardly remember when it was different, and we have never had a complaint. A single commission attends to it successfully, quite successfully, and there is no complaint whatever about the manner in which the business is done, and unless it be a pure matter of theory, I cannot see the Chairman's point that these things should be almost necessarily divided or segregated.

Mr. TULLIS: Mr. Chairman, I may state for the information of the Conference that in our State the Commission is a constitu-

tional body covering both railroads and other public utilities. It would require constitutional amendment.

Mr. CATON: Mr. Chairman, in Virginia our Corporation Commission is provided for by a constitutional provision. Our State Corporation Commission has control of all corporations of whatever character, railroads and other public utilities, and it would necessitate the amendment of our Constitution in several particulars. First, in the election of the Commissioners. They are elected by the people under a constitutional amendment and their powers are constitutional and are fixed by statute in detail, and we would have to amend our Constitution so as to pass this bill, and if there are other states like the gentleman who has just spoken that have constitutional provisions, you would find a very definite bar possibly to the adoption of a uniform law on this subject.

Mr. BEERS: Mr. Chairman, may I suggest that the difficulty that has been mentioned by Judge Graham and Judge Ailshie and Mr. Caton may, after all, be more apparent than real. We will assume that there is a state, and I understand from Judge Ailshie that Idaho is an illustration, that has one Commission in charge of railroad matters and in charge of the matters which it is now proposed to confine to this Commission. You simply take away from that Commission this particular part of the jurisdiction. It is hard to believe that it is really so interwoven that that can't be done. It is like taking away from a certain court jurisdiction over certain matters. That leaves the old Commission without railroad jurisdiction. If you want to avoid two Commissions, you simply have one Commission act in the two capacities, one set of men acting in the two capacities. There's a bit of embarrassment, to be sure, until you get, as has been suggested, a companion railroad bill, but it wouldn't seem insurmountable. It is a familiar conception that one judge may exercise two kinds of jurisdiction. You may have one Commission, a railroad Commission, on one side, and this sort of a Commission on the other. So far as the constitutional objection is concerned, of course, there's no way of surmounting that. So far as election is concerned, it is a very simple change to have these people elected instead of having them appointed. Of course, we can't attempt to regulate those

matters. My suggestion is you simply relieve the old Commission of certain jurisdiction vested in that body, and the people of the state if they see fit can make the one body exercise the two functions.

MR. RYALL: Mr. Chairman, I think I speak the sentiment of the Committee when I say there is no disposition to present a bill here which will bring about the creation of two commissions necessarily. There is no occasion for it and except in those few states where they desire it, there is no other reason for thinking about it. The situation suggested by Professor Freund and others has not been uncommon at all. Let us take the State of Michigan, for instance, which has had a typical growth. It first had a railroad commission, with rather not very broad powers over railroads. It next provided for a railroad commission, which had considerable power over railroads but no power over utilities. It finally got around to the adoption of a rather short, but quite effective, utility act, and they met the whole situation simply in this way: They abolished the old Michigan Railroad Commission in the act, and I think they did it in about four lines. They said that all of the powers of the Michigan Railroad Commission are vested in the Michigan Public Utilities Commission, and it didn't result in the repeal, the amendment or change of a single railroad act in Michigan, and there is a great volume of that sort of legislation in Michigan. In fact, the railroad legislation of Michigan makes a pamphlet about that thick (indicating), and not a single line of that was changed. All the powers theretofore exercised originally by the Railroad Commission, and later by the Michigan Railroad Commission, were vested in the present Michigan Public Utilities Commission; so it would seem to me here that if that situation is met, and answering Professor Freund's questions specifically, the thing to say to the Legislature is this; "If you wish to continue the Commission with the powers over railroads and with all powers which are not specifically covered by this, well and good." The adoption of this act ipso facto repeals and takes away from that former commission, or whatever you are pleased to call it, the powers herein provided. This contains the usual repealing and inconsistent provision. If they don't want to maintain two commissions, which probably is the situation in a great mass of the

states, simply suggest, and perhaps it would be the function of this Committee to provide specific language covering that, that all the powers heretofore exercised by, whatever the other board was, with reference to railroads and with reference to the other matters not here covered, shall hereafter be exercised by this commission. That gives the legislature the choice of one of two ways. My guess is that a great mass of the states will adopt the latter and simply say that all the powers of the former body, whatever you are pleased to call it, are now vested in this commission. I don't see any practical difficulty. The situation has been met and acted on, to my own knowledge, very simply and easily in Michigan, and I know it has been practically acted on in other states. Wisconsin had a somewhat similar situation. Their commission was among the earliest railroad commissions, but they gradually grafted on to that all these powers over public utilities. They haven't had any serious difficulty that I know of in putting the two together. I don't know just which states maintain separate commissions.

Mr. FREUND: Mr. Chairman, I do not believe the situation is quite as simple as the gentleman from Michigan puts it. It will cause considerable embarrassment and difficulty unless something is done. I suggest that this particular matter be referred to the Committee for some practical suggestion as to how to handle the matter in states where there is only one Commission. I think probably they could devise some simple form in which the matter can be effected.

Mr. DORAN: Mr. Chairman, in answer to Professor Freund's suggestion, I would like to request that the Chairmen of all the delegations from the various States who have joint control of railroads and other public utilities stand.

The Chairman repeated the request and the members responded by rising.

Mr. DORAN: Thank you. It is perfectly apparent, Mr. Chairman, that the vast majority of the states have joint control. They can't be segregated in our state. It's a growth, just as the gentleman here from Michigan has suggested. The earliest history of regulation in Kansas was railroads, and the main avoca-

tion of the politician in Kansas for the last forty or fifty years has been regulating railroads. You can't take that away from them. They have a special joy in toying with it, and they have, as someone has suggested, using a very appropriate word, grafted a number of other things onto it—inter-urban railroads and street railways, and buses is the last graft. They have so interwoven these one with another that they cannot be separated, and our law directs the Commission to take into consideration the effect of granting licenses upon all other methods of transportation. That's the last act of our last legislature. Now, I think that that section that we are now considering is conflicting. It says positively in one line that railroads shall not be considered, and in the next line it says it is not the object or purpose of this act to change the practice in any state, or words to that effect. It seems to me that the regulation of all public utilities and common carriers should be joint. It will be in our state, and I imagine that you gentlemen who stood up a minute ago would be tarred and feathered if you went back home and told them you were going to create two commissions. They wouldn't stand for it, and you wouldn't have the gall to undertake it. This gentleman over here says that wasn't the purpose of it, but you have either got to have two laws on this subject or you have got to have two commissions. I think the Committee had better reconsider it, notwithstanding the National Commission's decision on this subject to segregate these railroads. I don't believe we would be able to do it in my state, in fact, I know we won't, and I doubt if you will when you go back and try to pass this law in your own state.

Mr. DINKELSPIEL: Occasionally the California Legislature does some good work, I take it, from the number of references which the Committee has made in its report here to the California laws. They undoubtedly think very well of the existing California statute in relation to the regulation of public utilities. We have in California just the one commission, the railroad commission, which has charge not only of the railroads, inter-urban, electric and all others, but they have also the regulation of warehouses, buses, electric light and power, telegraph, telephone, and everything that pertains in any way, shape, manner or form to a public utility,

and it works very satisfactorily; and I don't believe, with the general tendency which is against the creation of more commissions, that there will be any chance at all in the State of California to create an additional commission for the purpose of regulating the affairs of railroads and of the other utilities. I call attention to the note on page 24 in the proposed draft here, which contains a definition of common carriers. In California it includes every railroad corporation, street railroad corporation, express corporation, etc.; they cover almost every kind of a railroad or carrying corporation. I think that something in the act could be placed there, defining all these, as was done in the California act, which would cover the situation fully.

Mr. STONE: It seems to me that my conferee here has started a debate which might be endless but which is unnecessary. As I understand it, the purpose of this act here is not to create a separate commission, but it is to define the duties of a commission, whatever it may be called. Now a Railroad Commission, a Tax Commission, a Utility Commission or whatever name it may carry in your state, define the duties of that Commission respecting public utilities as defined herein, which does not include railroads for the very evident reason, as stated by the Chairman, that railroads are so separate and their functions are so different in the regulation and the regulatory provisions which are necessary for governing them or regulating them, that it is better to have a separate law. You might have it as a separate chapter defining the duties of that Commission, be it one or be it a separate Commission with respect to the regulation of railroads, because they differ so essentially from other public utilities. Now here is an act which defines the duties of the Commission respecting public utilities. We pass it; it is passed in our state, say in Kansas, where we have a combination not only of the railroad commissioners but of public utilities commissioners, of the tax commissioners and of the whole industrial court, all put into one body of five men. The welfare commission also is included. There are five or six functions or duties which are put upon the shoulders of one commission. I hope they won't be separated again, because we have separated them, re-married them and then divorced them, but

finally we have got them altogether again in one family. Suppose they have five different lines of duties, taxing railroads, public utilities, etc. It is one body and will remain one body. This law doesn't seek to define all of those five different kinds of functions or duties. It says as to one, public utilities which are herein defined, and do not include railroads or industries or welfare, but include only public utilities. As to that branch of your duties, here is the law. Isn't that all there is to it? Now if you want to separate them in some state and set railroads over by themselves and put them under a separate body, well and good. If you want to leave them where they are, well and good. This law simply says that as to public utilities which are herein defined these are your duties; these are your powers; these are your functions. Isn't that simple enough, and why go back to the question of whether we can put them all in one body or not. With due deference to Mr. Doran, it seems to me that Section 3, at the top of page 24, does not conflict with itself. It says: "Transporting freight or passengers for hire for the public, including inter-urban, suburban and street railways, but not including railroads, or taxicab service in cities or towns." Is the definition of public utility the kind of public utility that is therein included?

Mr. HARDIN: I think in this section there are some things that may be productive of trouble. It is evident from the note attached to the section that the Committee had this thought in mind. Take, for instance, the second and third lines, the use of the words "but not including railroads, or taxicab service in cities or towns," opens up a lot of trouble for railroads, which, it seems to me, the railroads ought not to be subjected to. We have been through it in our state. There was a time when every municipality had to file an ordinance of some kind, every railroad passing through the city, but now in the days of general utility regulation that's gone by. We have been through it also in the automobile field. There was a time when every municipality made a separate regulation and license for automobiles, and only by general state legislation has that iniquity been abolished. It seems to me, therefore, the Committee should very carefully consider whether they want to exclude from general regulation by a state commission in the

broad language of "railroads or taxicab service in cities or towns." Another thought which I would like to bring to the attention of the Committee is that the concluding sentence with reference to state jurisdiction over steam railroads is in this day not definitive, because many forms of steam railroads are now partially electrified and many more are on the way; some systems are entirely at present electrified. I suggest these considerations to the Committee.

Mr. MARTIN: Mr. Chairman, every act that leaves this body and is recommended for passage to the several legislatures should take into consideration two things. First, it should take into consideration simplicity in procedure, and secondly, economy in administration. Now, if we send out or recommend to the legislatures of the several different states an act similar to this, and you know that all of the different states, or almost all of them, have a method of procedure entirely at variance with the one that we are discussing here this morning and contemplate recommending, we may as well face the situation and know the result. There can be but one answer. If that be true we ought at least to try to plan the laws of these different states and meet that objection now and not try to convert the legislatures of a great many different states, and certainly in many instances, as in Virginia, as Mr. Caton has suggested, the people of the state would force an action by constitutional amendment. There ought to be some common ground upon which we can meet that would embody all of the better features of this act, and I haven't any doubt that the Committee has given a great deal of thought and consideration to all of these things, and in addition to that, there ought to be under some sub-heading some method of procedure that will embody the regulation of railroads. It may be possible, and it is doubtless true, that that portion of the act will not be adopted by any considerable number of the states because the conditions surrounding the regulation of railroads are probably different in the different states, but we cannot exclude from the definition of public utilities, as the definition has been given to them by the courts, steam railroads and expect to get by with it. This very note that is made to the section itself suggests that the definition of public utilities as given therein is a peculiar definition. Now this body of men, this Com-

mittee composed as it is of eminent lawyers with certainly a comprehensive knowledge of the subject, as they have here displayed, can give us some method or interweave some suggestion into this act that would cover the objection of the majority of the delegates here, and for that reason, Mr. Chairman, I move that this section be referred back to the Committee with the recommendation that this matter or that the question of railroads be covered and referred back to this body next year.

Mr. LONG: Mr. Chairman, the Committee has after considerable work and difficulty presented to you a tentative draft relating to every principal utility except railroads. I say to you and to the Commissioner from West Virginia especially that in the opinion of the Committee no uniform bill can be presented that will regulate or attempt to regulate the railroads of this country. We are doing the best we can with public utilities. The difficulties in relation to that are apparent from this discussion, but when you add to that the attempt to regulate the railroads of this country and to present a bill that will take the place of all the existing laws in the different states in relation to the regulation of railroads, it's an impossibility; and I want to say to the Commissioner from New Jersey that we do not attempt in any way or in any manner in this bill to interfere with the existing laws in the State of New Jersey in relation to the regulation of the railroads. They stand, and that's the reason, and the only way, as the Committee thought, that we could get a uniform bill, would be to exclude the regulation of steam railroads. As to whether or not there is such a situation in New Jersey, or in other states, that you can't tell when a railroad is steam or electric, that will have to be dealt with locally.

Mr. SIMS: Mr. Chairman, may I ask the Chairman a question? Is it the opinion of the Chairman of the Section, with his vast experience in all sorts of legislation, that the Conference can pass a bill that would be substantially a uniform bill, to be passed by a majority of the states, leaving out as radical a section of public utilities as railroads? The Chairman has given, and his Section has given, a very elaborate attention to prepare, no doubt, a very fine bill, but are we working in a direction that admits of practical

success in leaving out railroads and in preparing a uniform bill along the lines of this bill which was first considered by the Public Utility Section of the American Bar Association and then referred by that Committee to this Conference of Commissioners. Do they believe it is possible to present a uniform bill in regulation of public utilities outside of railroads?

Mr. LONG: They do not think it is possible, if we enter the field of the regulation of railroads, to present any uniform bill, and in the presentation of this bill in the different states it is assumed that such able Commissioners as represent the State of Illinois in this body will take this uniform bill, if it is finally recommended by this Conference, and modify it so that it will fit into the existing laws of Illinois in relation to the regulation of railroads. If it is the desire of this Conference that this Committee should present provisions saying how this shall be grafted in or fit into the laws of the different states,—we do not attempt in any way to create additional commissions in the different states—or how we shall take it in or take it out or fit it into other laws, if that's the desire, the Committee will follow any directions you give us.

Mr. WASHINGTON: Mr. Chairman, I rise to inquire why exclude taxicab service in cities or towns?

Mr. LONG: That if you will notice, I think the Commissioner didn't notice the amendment that we suggest, and that is to bracket that provision "or taxicab service in cities or towns." The first attempt was to cover that regulation, the regulation of taxicabs in cities and towns. There is great difficulty in that. Sometimes the towns want to regulate that alone; sometimes it is regulated by a state commission or state agency, and in order to avoid that difficulty we bracketed that, so you can take it or leave it as you may see fit.

The motion of Mr. Martin was accepted as a suggestion by the committee and withdrawn as a motion.

Section 13 was tentatively approved.

Mr. Sawyer then read Section 14, and in the absence of objection or amendment, it was adopted.

Mr. Sawyer then read Section 15.

Mr. BAILEY: I would like to inquire whether any penalty is provided for the violation of Section 15? It is commonly understood, I suppose, that if a public service corporation does not furnish the service required, then it may lose its charter, but I find nothing in here, and I wonder if that ought to be stated.

Mr. VANDERVORT: Section 65 seems to cover that (reading Section 65).

Mr. BAILEY: Mr. President, it seems to me that that is not an ordinary penalty which is visited upon a public service corporation for failure to furnish continuous and reasonable service. I know in Massachusetts the great thing in the case of a strike where they wish to injure the public service corporation is to do something that will put them out of rendering service so they will lose their charter. It might be well to provide somewhere the usual penalty for violations.

Mr. FREUND: Isn't it true that the policy of all these measures is to remove penalties from these general provisions and to attach the penalties to the violation of definite orders which make these general duties specific? I think experience has shown that you cannot carry into effect any penalization of a general vague provision as to adequate service in a criminal court, and that's the very essence of those acts, I think, that these general duties be made specific by commission order.

Mr. RYALL: I think so far as we could think of going, it is covered by Section 62. It's a long section; I will not attempt to read it all, but it provides for action by the Attorney General at the direction of the commission whenever the commission is of the opinion that "any public utility is failing or omitting or about to fail or" (reading to word "commission" in 7th line). I think it is unnecessary to say to this body of attorneys that if a corporation, especially a public utility corporation fails to function, there is always the remedy by way of forfeiture of charter and terminating its existence, of course. That is a very harsh and unusual way and ordinarily unnecessary. I imagine what the Commissioner from Massachusetts has in mind is that type of failure to comply which would fall short of a forfeiture of its charter.

CHAIRMAN: Any amendments? Section 15 is adopted.

Mr. Sawyer then read Sections 16 and 17, and there being no amendments, they were adopted.

Mr. Sawyer then read Section 18.

Mr. FREUND: The wording of the last sentence is, in my opinion, unfortunate. It removes jurisdiction over this matter entirely from the public utility commission. The public utility commission ought to have jurisdiction over this matter as well as over utilities. If you leave it as it is now, however, you give a positive grant of power, so far as I can see, to the utilities to do that. I wish the committee would consider that.

CHAIRMAN: It seems to me that that's the effect of that section, to invest absolute power in the commission, as to whether they will grant that favor to its employees.

Mr. SAWYER: I suggest that this language is practically or substantially the same as that used in the Interstate Commerce Act, and in any event it would be subject to the supervision of the Commission.

Mr. FREUND: In the Interstate Commerce Act you will find that that matter of free service is meticulously regulated. It takes about an entire page, as to what may or may not be done, but I think it is not nearly as vague and loose as this.

Mr. SAWYER: Would it be satisfactory to the Commissioner if we insert the words at the close, "subject to the supervision of the Commission?"

Mr. FREUND: Yes, something of that kind.

Mr. SHELTON: I want to suggest that you cut out the word "unreasonable" in the second line, regardless of the fact that it may have been used extensively. It seems to me the very thought of preference or advantage given by a public utility corporation like this is against uniform service.

Mr. RYALL: Mr. Chairman, may I answer that. That is the result especially of the necessity of developing schedules which take care of different classes of consumers, and especially with electric schedules. Both the courts and commissions recognize the clear right, not only right but practically the duty of public

utilities to develop that type of schedules which, perhaps, will result in a different aggregate rate. It's a question of the reasonableness of it and the fairness of it, in view of the whole situation. For instance, with water power, where there are great quantities of power to be disposed of, it has to be disposed of on a different schedule and although the number of kilowatts consumed at the end of a year may be the same, the rate paid by two consumers may be radically different. Every public utility dealt with recognized the same situation. It is an utter impossibility and it would be an economic wrong to attempt to develop schedules with reference to certain kinds of service which would give every consumer a same unit cost. It is a question of developing matters which are not unreasonably preferential. There is a difference between consumers, and it is recognized in schedules, especially electric schedules.

Mr. O'MAHONEY: The thought I had in mind was that the statement just made by the gentleman from Michigan with respect to the necessity for giving special rates in the aggregate is really not a preference nor is it an advantage. It occurred to me that that might be covered by an exclusion from the act, because the language as it stands now would certainly make it subject to interpretation by the courts as to what preference or advantage might or might not be reasonable, and it would be much broader than what the gentleman had in mind; so it seems to me.

Mr. SHANDS: It occurs to me that the provision occurring in line 6 following the words "either as between localities or" should be eliminated, at least, insofar as electric power is concerned, because the things to be regulated primarily are the big companies, and we have found in our particular state, we have this proposition on now, where the hydro-electric companies are coming in and are enforcing a rate in one community, where there is an independent concern, that is lower than they are enforcing in other localities, for the purpose of destroying competition in those particular localities and forcing it out, and it occurs to me that it ought not be permitted to put in a rate in one locality that is different from exactly the same sort of service in some other locality in order to destroy competition.

Mr. SAWYER: There would be no objection to that.

Mr. Sawyer then read Section 19, paragraphs 1 and 2, and there being no amendments they were adopted.

Mr. Sawyer then read Section 19, paragraph 3.

Mr. ARMSTRONG: I would like to ask the Chairman of this Committee if he does not think that this section or some other section in the act should provide for the giving of public notice in the community to be affected whenever an application is made by a public utility for an increase in rates?

Mr. SAWYER: I don't know whether there is any subsequent provision of the act which provides for that.

Mr. ARMSTRONG: My recollection is that the law of Maryland definitely requires when application is made by a public utility for increased rates by filing a new schedule, that notice be given by advertising—a very brief notice, it is true—in the papers published in the community affected by the change, so that if a municipality or other organization or community organization desires to be heard, it will have an opportunity to present its views before the Commission takes its action.

Mr. HART: I would like the Committee to consider the advisability of having the Commission sue for the benefit of whom it may concern, because that would avoid a multiplicity of suits. Lots of people would never sue for a few dollars, and the public utility just makes that money, whereas if the Commission could sue for everybody they could recover the whole amount.

Mr. Sawyer then read Section 20.

Mr. SAWYER: Mr. Chairman, I am informed that the work of the Conference is in such shape that we will have to suspend further work on this proposed act. Before doing that I want to call the Conference's attention to two very important provisions of the act which should be given, between this Conference and the next Conference, considerable study by the conferees. If such is done it may save a great deal of time in this Conference; otherwise they are subject to a great deal, and possibly interminable, debate. For instance, this act has in Section 32 adopted the principle of what was once called the "terminable permits," which first was

given birth in relation to street railways, as I was informed, in Massachusetts, and later was embodied in 1907 in the laws of Wisconsin. The gentleman from Illinois will readily recall the interest which has been taken in recent months in the State of Illinois on this subject, and it might be so in a great many other states. The prevailing opinion now among students of public utilities, among commissioners, is that in a law of this kind the principle of terminable permit should be adopted. Now there is another question which has given the Committee a great deal of consideration and concern in order to adapt it to the different practises and sometimes the different constitutional provisions of different states, and that is Section 57, which deals with review. We first had that section planned as you will find it printed here, by which the review is made by a writ of certiorari. That would not fit into the practise and would not fit into the constitution of a great many of the states, so another section was re-drafted. Since the Conference met there was no opportunity for its being printed but it will be printed at this session and put in the hands of the different members of the Conference.

The Committee of the Whole then rose, reported progress and asked leave to sit again, which was granted.

VICE-PRESIDENT O'CONNELL assumed the Chair.

The appointment of Mr. Folland as associate secretary was announced.

The Chairman of the Executive Committee, Mr. Miller, announced that proposed amendments to the Constitution and by-laws would be considered on the next day.

The Conference then went into Committee of the Whole to consider the Uniform Act Governing the Use of Highways by Vehicles, Mr. Hinkley in the chair.

CHAIRMAN: The Chair recognizes Mr. Young and requests that he present an outline of the bill.

MR. YOUNG: Mr. Chairman and Gentlemen: As a preliminary, I think I will make a statement—I won't say brief but I hope it will be—as to the setting, what has brought this act forward at this time.

In 1913 the Conference first appointed a Committee on an Automobile Act, and there has been such a Committee in the Conference since, which has drafted a number of acts on different theories—sometimes very meagre, simply regulating or attempting to regulate registrations, sometimes affecting tax matters, sometimes attempting to make it an exhaustive automobile act, but no very serious consideration has really been given the matter for some time until last year, when the Committee reported an act which was not as inclusive as the Conference thought it should be, and the Committee was instructed last year to report this year an act which would be an inclusive act on this general subject of the regulation of automobiles upon the highways, including registration and licensing and various things of that kind, but not touching the question of taxation. Mr. Newlin was appointed Chairman of that Committee and he secured as the draftsman of that Committee, Mr. J. Allen Davis of Los Angeles, one of the attorneys of the Automobile Club of Southern California. They prepared some rather extensive questionnaires which were sent out to the various automobile clubs of the country, to the vehicle administrators of the different states, to chiefs of police and to certain other bodies who would have special knowledge of the things necessary to be contained in such an act. These two questionnaires covered very thoroughly the question of what the law should contain and what the provisions of that law should be and what should be the law and regulations, and various matters bearing upon it. They also made a very thorough analysis and investigation of the state laws of the various states bearing upon this question. While this work was progressing Secretary Hoover, of the Department of Commerce, called a conference to consider what action might be taken to prevent the great number of accidents and great loss of life and property upon the highways, due largely to the automobile traffic. That association, or in response to that call there met in Washington in December the representatives of these various organizations and formed what has become known as the National Conference on Street and Highway Safety. Preliminary to that meeting, Secretary Hoover appointed various committees to consider various phases of this question and report to that conference. That conference was attended by some 550 members and was in

session some three or four days. We were represented, as a Conference, at that meeting by Vice-President O'Connell, who later was put on the so-called steering committee, and also by Mr. Davis, the draftsman of this Committee. Now that committee was made up of representatives of railroads, street railways, motor bus and taxicab interests, insurance companies, automobile manufacturers, commercial organizations, safety councils, organized labor, women's clubs, parent and teachers' associations, state and city highway commissions and motor vehicle administrators, police chiefs and other traffic officials, engineers and educators, and it was held under the auspices of the Secretary of Commerce. That conference has been financed by voluntary contributions of various organizations, like the American Automobile Association, the American Electric Railway Ass'n, etc. As I said, about 550 people were present at that conference. The general legislative principles which should be incorporated in an act such as this were considered in the discussion there for three or four days, and with the aid of a committee there was formulated and published in a little booklet which is available—I haven't any copies here—through the Secretary of Commerce, the discussion of the regulations. That conference also created several committees to deal with this subject from its various angles. The first of those committees was a committee on the uniformity of laws and regulations, and General MacChesney, the President of the Conference, was invited to accept the Chairmanship of that Committee, and there were several other Commissioners appointed on that committee, among them Senator Long, Mr. Piatt, myself, Mr. Newlin, and I think Mr. Davis, the draftsmen of this Committee. That Committee has 29 members. Then there was a Committee on Enforcement, headed by Judge William McAdoo, Chief City Magistrate of New York City; a Committee on Causes of Accidents, a Committee on Metropolitan Traffic Facilities, a Committee on Statistics, and those committees have all been working. This Committee A, as it was called, the one on Uniform Laws and Regulations, held a meeting in Washington in May. The Public Law Section was not prepared at the mid-winter meeting of the Section in Chicago to make a report on this law, but in April there was a meeting of this Section held in New York, when the

draft, which is the basis of the draft that is now presented, was presented to the Section. That was gone over very carefully for about two days. Mr. Newlin, the Chairman of the Committee, was present. I had not been a member of this Committee up to this time, but because of my appointment on the Hoover Committee I was put on this Section. I paid no attention to the act at that time, and Mr. Newlin and Mr. Davis really have done all the work that was preliminary in presenting the act here. I am consequently considerably handicapped because I have not made the thorough study of the laws or of these questionnaires which a man who attempts to present this act on the floor ought to have made to properly do it; but after that act had been carefully gone over in New York, there were a good many changes made, and it was re-drafted and put into a shape to be used as the basis for the consideration of this Committee A of the Hoover Conference in Washington, and it was so used. That Committee, made up of representatives of all these various interests, automobile associations, automobile manufacturers, railways, street railways, chiefs of police, vehicle administrators, etc., giving a pretty general viewpoint of the situation, spent two days in the consideration of this act, and made a number of changes in substance and principle, which were re-incorporated into another draft by Mr. Davis and that draft was circulated through that Committee and again submitted to the drafting committee that was appointed there, a sub-committee consisting of eleven members, of which I happen to be appointed Chairman, and which is the reason I am attempting to present this here now. We met in Atlantic City in July and spent between four and five days in going over this with a great deal of care, and a good many changes were made.

I have given you this somewhat full statement in order that you may see, as far as the substance of this act is concerned, it is the result of very careful analysis of the state laws, the result of a careful analysis of this questionnaire of all these different interests, and the discussion of your own section and of this large Hoover conference and these sub-committees of the Hoover conference, bringing to the consideration of the substance of this act a very wide experience and knowledge of the subject from a great many different sources.

Now the act is probably not perfect, by any means, and it certainly is very apt to contain some verbal errors that, perhaps, we haven't discovered. These committees have been meeting so frequently and this work has been going on so rapidly that there has been no adequate time to sit down and give to this act that careful study which a man really ought to give to the finishing touches of such a thing.

The Committee then rose, reported progress, and asked leave to sit again, which was granted.

The Conference then adjourned until 2 p. m.

Fourth Session

Wednesday, August 26th, 1925, 2 P. M.

President MacChesney in the chair.

The Conference resolved itself into a Committee of the Whole for the consideration of the Uniform Act governing the Use of Highways by Vehicles, Mr. Hinkley in the chair.

Sections 1, 2 and 3 were considered and criticism elicited as to formal and verbal matters.

Mr. YOUNG: I should like to suggest to the Committee that this act is pretty long and we can't read it in the time that's allotted for its consideration fully section by section. We should like to go through it and read the sections by titles and those that bring up some particular principles that we would particularly like to have you express an opinion on we will discuss, and in that way I think we may be able to get through the act this afternoon. There is one other thing which I would like to suggest for your consideration, and that is that there may be some verbal deficiencies in this act which could be, and probably would be corrected by the Committee, and we would especially like to have your thought directed to the substance of these sections rather than to the technical verbiage. If anybody sees something that ought to be clarified, just suggest that it ought to be clarified, or something of that kind, but the substance of the thing is really what we want to get your ideas on at this time. Of course, this is only the first tentative draft practically of this act, and, as a matter of fact, we ought not to spend all of our time on "ifs"

and "ofs," because the Committee on careful consideration will catch many of those things, but the substance is what we would like, and with that I will ask Mr. Davis to go on and just read the substance of these sections. If anyone has any question or desires to call up anything, we will stop for that, and when we come to sections that involve questions of particular principles we want to discuss we will go into that more in detail, if that's agreeable to the Committee.

Mr. DAVIS: Mr. Chairman and Gentlemen: I would like to make a general statement in regard to the definitions included from Sections 3 and 4 down to and including Section 12. All of these terms relate to different classes of vehicles. They are in the nature of trade terms. The definitions are derived from existing motor vehicle statutes and have been checked very carefully with representatives of manufacturers, dealers and others, and it is believed that these definitions correctly represent current definitions of these particular vehicles.

Mr. Davis then presented the substance of Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29.

Mr. Davis then presented the substance of Sections 30, 31 and 32.

Mr. DAVIS: In Title II which has to do with the office of Vehicle Commissioner and the Vehicle Department's powers and duties, you will find Section 100 written in the alternative, the first Section 100 creating the office of Vehicle Commissioner and the second alternate Section 100 designating the straight officer who shall perform the duties of Vehicle Commissioner.

Mr. YOUNG: Mr. Chairman, I would like to move the tentative approval of the sections read in the first title.

CHAIRMAN: In the absence of objection, that first title will be considered tentatively approved.

Mr. Davis then read Sections 101, 102 and 103.

Mr. DAVIS: Section 104: This section was revised the day before yesterday by the Public Law Section. It should read as follows:—this will be printed, I understand, and presented to the members of the Conference—

"The Department as often as practicable, but at least once each month, shall either publish or post upon public bulletin boards upon each of its offices a record of stolen vehicles and of suspensions," etc.

Some of the statutes go even further than this and require the publication of new registrations and transfers of registrations, but that seems to entail an unreasonable expense, and for the purposes of enforcement and the benefit of the Police Departments the Motor Vehicle Department is here required to publish or post only a record of stolen vehicles and suspensions and revocations of licenses.

Mr. Davis then stated the substance of Sections 105 and 106.

Mr. FREUND: I think it would be very desirable to have some provision here making the statistics uniform throughout the country. That is only an indirect provision for the department, but I think that would be appreciated by the federal authorities, by the Department of Commerce.

Mr. DAVIS: That matter was discussed very carefully at the meeting in Washington, and the draft contains the phraseology using the recommendations of the National Conference on Street and Highway Safety to this effect, that the reports should give sufficiently detailed information to disclose, with reference to a highway accident, the cause and conditions then existing, and the persons and vehicles involved, and then that the department shall tabulate and analyze such reports showing the number, cause and location of highway accidents. Now, I understand that the Vehicle Administrators and other organizations are working upon standard forms for accident reports, and these annual reports are to be gotten out by the administrators, but it was thought dangerous to include too much detail in this draft as to exactly what should be reported. The things they are primarily interested in are those mentioned here.

CHAIRMAN: If there is no objection, the sections contained in this title will be considered tentatively adopted.

Mr. Davis then presented the substance of Title III, Section 200.

Mr. Davis then presented the substance of Sections 201 and 202.

Mr. Davis then presented the substance of Sections 203, 204, 205 and 206.

Mr. CHILD: It is preliminary to these next two sections, perhaps, if I make my suggestion now so that the draftsman may be able to throw some light upon the inquiries I had in my mind. There isn't a large city in the country in which every day crime is not facilitated by the fact that the license plates can be easily removed and changed. There is hardly a daily paper that you pick up but what speaks of an automobile being taken, a man getting out, changing his plate and putting on another one. Now the late popular articles on organized crime call attention to the fact that one of the methods of carrying on organized crime at the present time is by having people who can change automobile licenses quickly and have false ones. As a matter of fact, the automobile license plate is a protector of thieves and operates only upon the honest man. Now I have wondered why it isn't perfectly practical to have a permanent sign, have a sign so permanently fixed to the automobile that a thief cannot get out in two minutes and change it, or if he does change it, it will show on the face of it that it has been changed. Now, under the present system and under the proposed system here, it does not facilitate or assist at all in identifying the car, because whenever a person wants to change the identification he can do it so easily. Now another element of that is the being able to detect the identification. Take it in Minneapolis, our population is up to 375,000 now. Well now, there is no ordinary person—at least, the ordinary citizen won't detect quickly six figures, but if you locate it by Hennepin S5006 or 5001, one could detect it quickly—the initials of the county is one method. I would like to suggest and ask if any energy in this matter has been put upon permanent license plates, so that they cannot be changed, and also what energy—evidently none because I have seen no state that numbers successively right through—upon the question of arrangement of letters and figures denominatively and locating them in the different parts of the state? Why shouldn't they be located in the county as well as in the state?

Mr. DAVIS: There are several points which have been raised in connection with this section. One is with reference to the permanent identification of the vehicle. The draft makes provision for

the assignment of a number to a vehicle which identifies the vehicle and the owner. Really the important thing in connection with the license number is to identify the owner, the man responsible for the vehicle. This number remains upon that car only so long as the owner remains the owner. When an owner sells his car he must take that license off. Consequently it may at any time be determined by the records in the Vehicle Department who is the owner of a particular vehicle. Thought has been given to the other point which is raised, as to whether or not the numbers should designate the county from which the vehicle is registered, and it was thought best not to put in any specific provision upon that point because of the fact that so many vehicles are transient. They are registered, perhaps in one county but they are operated all over the state. The owners move, change their addresses, and this section was left somewhat general as to the numbering for the reason that there were so many practical difficulties that it was thought best to leave it to a working arrangement by the Vehicle Administrators. Now there has been appointed a Committee, of which Mr. Hudson, I believe it is, of the Department of Commerce, is in charge, which is working upon this subject of vehicle numbers, trying to work out a standard size and coloring, in order that such numbers may be more easily read, and it was the recommendation of the Committees of the Hoover Conference that the draft do not attempt to tie this up at this time until that Committee has had an opportunity to work out a general plan, and then through the Association of Vehicle Commissioners it is intended to carry out, so far, as possible, an improvement in regard to identification plates.

Mr. YOUNG: Mr. Chairman, I think there is one thing more that might be said. Of course, your registration shows your engine number, and it is really the engine number that identifies the car, and when you get a question of a stolen car and who is driving it, of course, you can't depend simply upon the registration number plate that is on your car, and it is, of course, a mechanical proposition whether you can get some method of fastening a plate to your car so permanently that you can't change it and at the same time be able to change it readily year by year when you register your car. It seems to be an impractical proposition to

assign a number to a car and then let that same number stay with the car as long as the same man owns it, for years, and practically under this registration scheme it seems necessary to give a new number when the car changes owners. Then on this question of the mixing up of numbers and putting on counties. This act seeks to make a reciprocal relation, so that when you register your car in Minnesota you can drive to any state in the union. The more things you put on your car the more confusing it is. If a man from another state sees your car going through with Hennepin County and other things on it, he gets confused in reading the cars as they go by, and I think there is one thing you should have, as this act attempts to provide, a very clear, legible number and a very clear, legible mark, showing either the full name of the state or an abbreviation that is readily known, of course. These number plates that are put on for the purpose of designating your car on the road are only intended to be temporary, for a year, and they are hardly expected to be built into your car. It is something you only carry for a year, and it should not be something that couldn't be extracted without damaging. It wouldn't be practical to add an additional plate when you go out of the state. Few cars go into interstate commerce. A great many in the big states, perhaps, wouldn't mind it, but take down in New England, from my home to Boston I pass through three states, maybe four, and it would really be inconvenient if I had to put on a separate plate at every state line.

Mr. PIATT: I believe there is a mid-way line between what Commissioner Child offered and what the Committee offered that may be of some service and some value. I don't myself conceive of why it is any more impractical to run a continuous number on the registration plate than it is on the certificate, and, therefore, why shouldn't the car, if you are going to have a certificate of title, why shouldn't the car bear the same registration number that your certificate of title bears during the life of that certificate of title as a practical business operating proposition? When the title is changed and a new certificate of title is given, then give it a new registration number, and it would have this advantage: to do that with those men who carried a car four or five years the

Secretary of State now, instead of having to issue new plates all the time and changing the number, could require and secure the payment of licenses by mail, and the man that didn't pay his license on the 31st of January would then be in default, just as a tax and a penalty that is assessed; so, as a matter of fact, I think, gentlemen, that it would be a decided improvement on the proposition if part of what Mr. Child submits here would be offered, to wit, that the certificate of title and the registration number of the car should be identical.

Mr. YOUNG: I think there would be some practical difficulties in that unless the entire scheme were changed. The law in most of the states, or, at least, in a large proportion of them, requires the annual registration of a car, so if you own a car four years you make four registrations, but if you own a car during that four years you would only have one certificate of title. Of course, if the arrangement was that you only registered the car once during its lifetime and then registered it again only on a change of title—(interrupted).

Mr. CHILD: Let me suggest, Mr. Young, that you are begging the question by saying that the states have their own system. What we want to do is to give them the right system, not follow the system they have.

Mr. YOUNG: Perhaps I am begging the question, but this is a revenue measure in part and a safety measure in part, and if the states and then the police, etc., have got to know whether it is registered, if you put out a number plate marked 1924 and keep that same number plate on your car for five years, and a man drives it without registering the car, you can't tell by the plate any time after that first year whether he is, in fact, registered or not, and I think you will find that your Police Department will insist that there must be something to indicate on the car whether this year's license fees have been paid.

Mr. PIATT: My suggestion isn't to carry the same number plate for five years, that is, the same piece of tin, but re-issue it each year with a new year on it but carry the same number. That would take care of the suggestion you make.

Mr. YOUNG: There isn't anything in the act that would prevent

that, but the vehicle administrators all through the country say to keep that same number year after year is a practical impossibility because of the increased amount of work that seems to develop in their offices. That's what these fellows who do it say about it.

Mr. Davis then presented the substance of Sections 208, 209, and 210.

Mr. CHILD: I wish to insist that this section (referring to Section 210) is working along the wrong line in tracing automobiles. They have gotten their idea that because you trace real estate in that way it is desirable to trace automobiles and it is desirable to trace the owners of automobiles, and that you can work this kind of a system. This kind of a system has not worked and it will not work. It simply catches the legitimate man and makes him trouble and lets the thief and the thug go free. They aren't observing this. We have it in our state. The legitimate man is observing it, but the illegitimate person is not. I insist that the attitude towards this proposition in automobiles has got to change, and not attempt to fix all the damages of the automobile upon the man who happens to be the owner. One of the objects of this act, I take it, is to make it presumptive evidence that the man in whose name this automobile happens to be is liable for all the damages in connection with it. Now when we get the idea of the other theory of the law of libel, that the injury should follow the automobile and not necessarily follow the other man, then we will take another idea in regard to tracing the title.

Mr. YOUNG: What is your suggestion, Mr. Child?

Mr. CHILD: I am not an expert on this. My suggestion is that this registration method is complicated, burdensome and not effective, and that the method of tracing automobiles should be changed; trace the automobile itself and let the automobile identify itself.

Mr. YOUNG: I am not able to state from personal knowledge how this works, but I am informed by those who profess to be quite familiar with it—Michigan and various other states have somewhat similar provisions—it is working very satisfactorily; it is preventing the registration of stolen cars and is a very great protection against theft and against various other troubles, and

that it does make a satisfactory means of showing the actual title to your cars.

Mr. BAILEY: Mr. Chairman, I wish to express my approval of Section 210. I think that covers the question I raised a while ago, and it covers it in an excellent way. It is a very important proposition. I had a personal experience of that, and I think this covers it.

Mr. BRITTON: The subject of the transfer of title or interest in automobiles is one that overlaps the subject now being considered by the Uniform Chattel Mortgage Committee. I merely want to suggest that the Chattel Mortgage Committee would like an opportunity of conferring with the members of this Committee so that the provisions in the Chattel Mortgage Act could be worked out in harmony with the provisions of the Motor Vehicle Act.

Mr. PIATT: I will put a question to Mr. Young for solution because he has suggested a thing here to me that I think is worth while to the public. Two days before I started for this meeting a young chap came into my office, and he wanted to borrow \$150 with which to pay off what he called the title mortgage against a new motor car that he had, and he explained to me that he wasn't permitted to sell—he didn't call it equity, he didn't understand that, but he wasn't permitted to sell that car until he first went and paid off this title mortgage that they had, and that he had a chance to sell it for \$450 at a certain place but where they had him was that he was compelled to sell it for only \$400. I looked at the young man in somewhat of amazement, because it was an amazing proposition that a man couldn't sell his equity in anything he had. Not being very much up on automobile law, I didn't know. Now if this is not taking the position of the Chattel Mortgage Act and doesn't impinge on that, isn't it proper to put some degree of protection in here to the public? If a man may have a right to sell his equity—if it is the intention to abolish that right, then let's make it plain. My question is whether this is intended—I understood you to say it was not intended—to take the place of the Chattel Mortgage Act?

Mr. YOUNG: No, this simply has relation to registration. If a man wants to lend money on an automobile he would lend as he

would on any other chattel in the state where he lends it, and he will clear it in the same way. This is simply with relation to registration, so that a man who has possession of an automobile shall not be enabled to go and sell it simply because he has possession and give a good title. If I come along to you with a car that has a mortgage on it for two-thirds of what it is worth, that mortgage shows up in the Registration Department. If I sell you this car you can't go up and get it registered without discovering that there is that lien, irrespective of a chattel mortgage. It doesn't prevent you from selling it, however. You can sell it, only you have got to show in the same when you give a certificate of title that it is subject to this lien.

MR. PIATT: If this certificate of title shows a lien of \$300 on the car, there must in addition to that be created a chattel mortgage?

MR. YOUNG: This wouldn't give you a chattel mortgage that you could foreclose, or anything of that kind. This contemplates this: When a man sells a car he may sell it under conditional sale, and if you happen to buy under those circumstances you are the man that would register the car. You would go to the Vehicle Commissioner with your application for registration and for a certificate of title and you would state to him that there's a lien on that car, of whatever it might be, and that will simply be noted there, so when you attempt to transfer it, if it hasn't been cleared, the new certificate of title will still show that that is there. It isn't anything you can foreclose or sell as you can your chattel mortgage, that is, you can't transfer the lien. This is a mere record of the lien. It is really not the lien itself; it is not a mortgage; it is not the evidence of a debt; it is the mere record of the debt, that there is such a thing on the car.

MR. SIMS: Why is it necessary in the application or in the certificate of title to recite the existence of a lien or conditional title? The theory of the act is to identify the vehicle rather than to qualify the extent of ownership. Why do you have to have in all these acts the quality of title? It is provided up there that the owner shall do all those things.

MR. YOUNG: It is a matter of recording and keeping your records, and so that the people who deal with a registered car will

know who is the owner. For instance, in the conditional sale the legal owner, of course, is the vendor but the person who registered is the vendee, and it should appear that that's the fact.

Mr. SIMS: That may be true, but it seems to me that the complication that these gentlemen brought up—it seems to me we could get rid of it by abolishing from the certificate of title any evidence of qualified ownership.

Mr. YOUNG: I haven't had enough experience to tell you about the practical working of that, but this is the result of the experience of the men who have been handling stolen cars in improper transfers, and in those states where they have adopted something of this kind they find that it has been stopping the stealing and transfers of cars, and various things that are frauds upon the public. It is a protection to the public. Beyond that I can't explain; perhaps somebody here would be more familiar with it.

Mr. SCHNADER: I think I can answer your question. There are some states which do not have chattel mortgage laws. Pennsylvania happens to be one of them. We sell most of our automobiles on a lease contract system, and there is no place where the lease can be recorded.

Mr. SIMS: That explains it. This is a provision that covers those things. I guess that answers Mr. Piatt and Mr. Child.

Mr. DAVIS: Section 205.

The next section has been revised by the Public Law Section at this Conference. It provides for special plates to be assigned to manufacturers and dealers in motor vehicles. Practically every state in the union makes provision for these special plates to dealers, who are given a special rate for the reason that such plates are ordinarily retained upon a vehicle but for a very short time; they are used upon demonstrating cars and then are assigned to a manufacturer who will use them upon some other vehicle which he is using for demonstrating purposes. The section has been worked out by the Public Law Section since the printing of the bill.

The next section, 212, requires— (Mr. Davis then presented the substance of Sections 212 and 213.)

Mr. BAILEY: Mr. Chairman, a word of inquiry about section

213. Does that undertake to regulate inter-state commerce? If not, why not?

Mr. DAVIS: Because it relates only to the registration of a vehicle in the visiting state. The recent Supreme Court decision relating to these inter-state buses was carefully considered in the preparation of this section, and it was felt that the section was so devised as not to come in conflict with that decision. We had a copy of it.

Mr. YOUNG: The intention here is to give complete reciprocity, so that if you register your car in your home state, take a pleasure car that you can go anywhere all over the country with, that plate, unless you go into a state to stay permanently or unless you so arrange things that you place that car in that state as a sort of permanent thing, for instance, as a pleasure car, and live in one state, naturally you would register it there, but you could drive anywhere in the country. If you have a place of business in another state and you there employ cars in connection with that business, you register those cars in the state where that business was, although you lived in another state. If you had other cars that were used in your business in your home state, you would register them there. If it so happened in the conduct of your business that you wanted to send one of your home state cars on a single trip to the other state, you wouldn't have to register that car in the visiting state.

Mr. BRITTON: What is the effect under Section 210 upon equities in the car possessed by parties whose names do not appear in the certificate of title. Is it intended to leave, for instance, the Sales Act apply, or does a transfer of certificate to operate, like a transfer of land, like a deed, cut off the equities?

Mr. DAVIS: The idea of it is this: You do not transfer a title by simply transferring this certificate but the law is that for the purposes of registration the purchaser cannot register the vehicle unless he has secured the preceding certificate of title. In other words, this does not purport to declare the method of selling a vehicle or cancelling or satisfying liens, or anything of that kind. It is simply that the Department of Vehicles shall have a record of the sequence of ownership.

Mr. BRITTON: Isn't there a possibility that the entire section here could be construed as cutting off the equities?

Mr. DAVIS: Not at all. You don't get a clear title necessarily by getting a certificate of title.

Mr. Davis then presented the substance of Sections 214, 215, 216 and 217.

CHAIRMAN: If there are no further suggestions to be made on Title III, the sections composing that Title will be considered as tentatively approved.

Mr. Young then presented the substance of Sections 300, 301, 302, 303, 304, 305, 306 and 307.

Mr. SIMS: I would like to ask Mr. Young if he doesn't think it practical to adopt some scheme of examining the capacity of an applicant to drive?

Mr. YOUNG: His examination is provided for here. He is taken out and actually tested to see if he can operate an automobile under the supervision of some one representing the department. It is working very practically in many states, and is perfectly practical and satisfactory. I think all the northeastern states practically require that to-day.

Mr. Young then presented the substance of Sections 308, 309, 310, 311, 312, 313, 314, 315, 316, 317 and 318.

Mr. SIMS: Is Section 318 a common section?

Mr. DAVIS: It is in a number of statutes. I should think that probably there would be no question about its constitutionality. The minor cannot have a license to drive within certain ages without the consent and approval of his parent, and if the parent requests the granting of a license and secures it this makes him liable for the negligence of the minor, and that has been sustained as constitutional in some states, California being one.

Mr. SIMS: I mean, supposing my son gets a license to drive a car and while I am away suppose you allow my son to drive your car, am I liable for that?

Mr. YOUNG: Yes, I think so.

Mr. BEERS: Mr. Chairman, may I call the Chairman of this

Committee's attention to the final sentence of Section 316? What is the idea of cutting off the right of appeal to the higher court?

Mr. DAVIS: This right of appeal to the court is granted in the event that any license is denied, any applicant is denied a license, or a license is revoked and the matter is passed upon by the Commissioner, and then further privilege is given to appeal to the Superior Court, the court of first jurisdiction. I don't believe it ever has been suggested that a man be allowed to go clear to the Supreme Court on a question of his right to the license. In a great many states the administrator is the person of last resort, but this is put in as a further protection.

Mr. BARTON: Before we go on, Section 312, about the expiration of a driver's license, that provides that it shall expire one year from the date of issuance. The date of issuance might be any time in the year. Now, the average man, judging at least by my experience, is not likely to remember that on, say the 17th day of June his license is going to expire, and the time will run by, and the first time he will become aware of it will be when he has an accident, and then he will find that his insurance has become invalidated by driving a car without a license. Don't you think it is rather dangerous to leave it that way?

Mr. YOUNG: I think there is some force in what you have said. That matter will be very carefully considered. However, the practice of all the Departments, I think, is to notify a man a little while in advance of the time his license expires that it expires, and send out blanks for the renewed application. This law doesn't require that. Now, if it expires on the 31st of December, then every driver in the state has to be licensed at that time of the year and you have got to have a tremendous lot of help there for that short period. Now this distributes it over, so that a moderate number of employees in the department will take care of the issuing of those licenses instead of having to have a lot of extra help during the month of January say, and because of the advantage from administration economy, this was adopted, and it does work. It is used in some of the states and they tell us it works out satisfactorily.

Mr. BEERS: I move that the last sentence go out of Section 316. The department is given a right to pass upon the revocation of a license and then there's an appeal to the court. Why should the appeal to the Appellate Court be taken away? It is a valuable right; the right to drive a car may be a valuable property right. The action carries with it a certain amount of stigma, and while it would seem in a great majority of cases there may not be any occasion to appeal, nevertheless, a man ought to have that privilege. I therefore move that that go out.

CHAIRMAN: Any reply to that?

Mr. YOUNG: No, I think it is purely a matter of judgment. I don't think there is any objection to it.

CHAIRMAN: Will you accept the amendment?

Mr. YOUNG: Yes, I guess we will accept it. As to this question about when these licenses expire, I may say that the Committee will be glad to give that further consideration. We as operators—I think most of us feel as you do.

Mr. AILSHIE: I want to ask a further question with reference to Section 318. Do I understand you to say that it is intended and has been held under any state law that a parent who signs the application for a minor under the age of 18, and within the age limits, for a driver's license would be liable for any negligent driving or any damages that occur whether he is driving his car or some car of anyone else?

Mr. YOUNG: Yes, because the boy couldn't be driving, the minor wouldn't be driving at all lawfully except for the act of the parent. Therefore, by getting him a license so he can drive, he assumes that responsibility.

Mr. Young then read the titles of Sections 319 and 320.

CHAIRMAN: In the absence of objection, the sections proposed in Title IV will be considered tentatively adopted.

Mr. McDUGAL: If I might refer back to Section 312, I would like to move that you strike out that section. It seems to me if an operator could get a license, that's all right and proper, it should be, but if I am capable of operating a car this year I guess I will be next year.

Mr. YOUNG: You may come to a time when you won't be.

Mr. McDUGAL: As to having it expire one year from the date issued, I think that should be stricken out entirely. The purpose of requiring a license is to find out whether the operator is capable and qualified to operate a car. Now, when that has been ascertained and he has been authorized to operate his car, he shouldn't be required every year to renew that license.

Mr. YOUNG: There is a presumption of law that a condition that once exists is supposed to continue until the contrary has been shown, but with relation to human experience I think you all know that a man may be competent to do something this year that in one, five, ten or twenty years he ceases to be competent to do. His habits might change; he might become a drug addict, or something like that.

Mr. YOUNG: I would like to make one other suggestion. There is quite a revenue item here too, because you get from each of these licenses a charge annually. You take in states like New York, where they issue licenses up in the millions, the revenue element is really something which enters into it.

Mr. GRAHAM: Then it would be a purely revenue matter on any other theory.

Mr. YOUNG: Partly that and partly administrative. Men die during the year, and if they were granted a license for life and never renewed, you would gradually accumulate a record of all the licenses that were ever made in the state. There is no way to find out whether a man is dead or not, or if he has moved from the state.

Mr. McDUGAL: What difference does it make?

Mr. YOUNG: It makes a good deal of difference in the administration and the files. Everybody realizes that you have got to have some regard for the administration of the law.

Mr. CHILD: I think public sentiment, in fact, I know it, is against drivers' licenses. It serves no good purpose. It is the over-run idea of regulating everybody. The idea that a man has got to get a license in order to drive a wagon on the street or an ordinary method of conveyance, I think is ridiculous and wholly

a mistaken idea, and I did what little I could to head off the tendency in Minnesota of the proposition of those that want to regulate everybody or to license me because I want to drive an automobile.

Mr. BAILEY: The motion is, as I understand it, to strike out Section 312, about licensing chauffeurs, and that brings in some money. Now what becomes of the money that it has brought in? In Massachusetts that money goes into good roads for the benefit of the public owners of automobiles who are riding private and public conveyances, and we wouldn't have good roads in Massachusetts except for the money that comes in from automobile revenue, so the money is really needed for the benefit of the public, and it is needed for safety, and it seems to me that the experience of the states which require these licenses shows that it is entirely feasible. I believe it is reasonable. I hope it won't be stricken out.

Mr. WASHINGTON: If you strike out Section 312 you will endanger the passage of this act by a great many of the states. In my state every man who owns an automobile has to take out a license on the 31st day of December. It's a revenue measure, and if you permit licenses once issued to be perpetual, when will the license expire? All this revenue that is collected in that way, as well said by the gentleman from Massachusetts, goes into roads for the benefit of those who use them.

Mr. SHELTON: It seems to me that there is a great deal more involved here than the question of finance. It means the regulation of the person who has permission to drive. It seems to me that this is a matter that we ought to settle in principle, which is, that there should be some limitation, and that we ought to leave it to the good judgment of this Committee what this should be. I hope that will be our vote.

Mr. WASHINGTON: May I suggest to the Committee that you might adopt the rule that we have in our state, that licenses expire once in two years and then they have to be renewed by the payment of \$1, which is good for two years.

Mr. McDUGAL: In regard to this question of the renewal of licenses, it seems that that resolves itself down to the question of revenue. If that's the purpose of it, if you make a nominal fee for

renewal of, say \$1., as the gentleman suggested, all that would be consumed in the payment of the clerical force that would have to be employed to take care of these millions of applications and the stationary that's necessary to carry out this provision. If you are going to make it a fee of a substantial size, we will say, for instance, \$5, let's see how that would work. In the first place, we have a license fee that must be paid for every car; then we have in nearly every state a tax upon the gasoline that's used in the car. This revenue goes into the building of roads, as the gentleman from Massachusetts has suggested, which is proper and all right, and these other charges, the gasoline tax and the automobile tax on the license for the car, are apportioned according to the tax on the automobile, the license is according to the cost of the car or according to the size and weight of the car, which would make it fair. The gasoline tax, of course, is so much per gallon, which is fair and equitable. Now, what's going to be the effect of this tax on the licensing of each person who operates a car? We will say the gentleman from Vermont has three in his family and has three cars. He has to pay three licenses for operating them. I have twelve children, we will say, and one Ford car. My wife and myself and my twelve children, the fourteen of us have to line up once a year and pay a tax of \$5 each, which would be \$70 for the privilege of operating one little Ford car. Now it isn't equitable, these other taxes. The tax for your automobile, for the machine itself, is paid one time for one car. This tax on the operator will be paid many times for one car, and in the majority of cases it would be paid for the cheapest car too, because the man who is only able to have a cheap car will have but one car in the family, while a man who is able to have a better car will probably have two or three cars in the family. Now I think the matter of revenue should be applied only to the car itself and not to the operator.

Mr. YOUNG: Mr. Chairman, I think I should like to move that this section be re-committed to the committee. In 1923 there were 22,600 fatalities from automobiles on the highways of this country and a loss of about \$600,000,000 in property damage as a direct result of it. This licensing of drivers is a matter of public pro-

tection and safety. I don't suppose there is any man here who would enjoy going to San Francisco on a railroad train that was driven by engineers who had never been licensed to operate a locomotive. Somewhat of the same question is involved here, except you are turning loose all the twelve children of my friend from Oklahoma, and if one minor child runs over you and kills you, you are just as dead as you would be if he did it himself with a Packard. Another thing, any law that you are going to get through here has got to have the backing of your motor vehicle administrators, and you will never get one through in the Eastern part of the country unless you have this license provision. I move as a substitute that this section be re-committed to the Committee for further consideration.

MR. SIMS: I hope you won't make this substitute. I think this is a radical point, and we might as well decide at this stage of the act whether we want to have drivers licensed. I think the Committee might have the opinion of the house now.

CHAIRMAN: The gentleman on the left of the Chair has the floor, as soon as the Chair states the position of the Conference. Mr. Barton moved, and the motion was duly seconded, that the section be struck out. Mr. Young moved as a substitute that it be re-committed. The substitute motion was seconded.

CHAIRMAN: The question is on the substitute motion to re-commit instead of striking out.

MR. O'MAHONEY: May I make a suggestion to the Committee, that there may be some other states, like Wyoming, which do not at this time provide for any license whatsoever for the driver, and in states of this character where the communities are far apart, there would be considerable opposition as to the adoption of any law which would require the annual renewal of an operator's license. I think it might be possible in the state of public opinion now in Wyoming to secure a provision which would require an operator's license, provided it should not be necessary to renew that every year.

MR. FOLLAND: May I suggest to the Chairman of this Committee, Mr. Young, these facts: Section 312 includes two things, the operator's license and also a chauffeur's license. I think

undoubtedly the chauffeur's license ought to be renewable every year. The operator's license might be a different thing. Wouldn't a motion like this be better, that this section be re-committed to the Committee, the Conference being committed to the thought or the principle of an operator's license, but referred back for the further consideration of the question whether that should be renewable annually?

Mr. YOUNG: I will accept that.

Mr. CHILD: I suggest that no vote of this body has any binding effect upon the Committee. It is simply suggestive tentatively, and so far as being afraid of a vote, it doesn't tie the Committee up to anything. Now it does seem to me that the Committee might wish to have the expression of opinion of this body, and I move that it is the sense of this body that an owner's or driver's license which distinguishes it from a chauffeur's license should not be required.

Seconded.

CHAIRMAN: If Mr. Young will temporarily withdraw his motion to re-commit—(interrupted).

Mr. YOUNG: That's a different subject than Section 312. It isn't germane to this section at all.

The motion to re-commit was carried.

CHAIRMAN: The Chair will now state again that in the absence of further objections the sections composing Title IV will be considered tentatively approved, with Section 312 re-committed.

Mr. AILSHIE: I would like to refer back to Section 320, if I may. I want to suggest to the Committee that in their future consideration of this bill they omit the first three words of that section "This state and." Of course, in some states it would require constitutional amendment before a state could be made liable, and in addition to that, I submit that you are going pretty far when you make the state liable for these acts, especially where the states are co-operating like they are through the Western country, and not only the Western country but elsewhere throughout the country, with the general government in road-building, and I think we ought not to go to the extent of making the state liable in those states:

CHAIRMAN: Does the gentleman from Idaho make that as a motion?

Mr. AILSHIE: I make that as a motion, that those three words be stricken.

Seconded.

Mr. GRAHAM: I want to inquire of Mr. Young how he proposed to make the state and these other municipalities, but the state particularly, liable in its own court?

Mr. YOUNG: By passing a law that they would be liable.

Mr. SCHOETZ: Wouldn't this provision have a tendency to make drivers of city and county vehicles careless?

Mr. YOUNG: They are liable personally under this act.

Mr. FOLLAND: Mr. Chairman, it seems to me that there should be no difference in the liability of public corporations. If the city or county is to be held liable for the operation of a vehicle, then the state should. Of course, if there is a constitutional provision which prevents the legislature from imposing that liability or assuming it or waiving the privilege, then this act, of course, could not become operative, but in all the states where there is no constitutional provision it seems to me the same degree of liability should be held and assumed by all the public units as well as the state itself; that this whole section should stand or fall as a unit. At the present time it is true that cities, counties and public organizations of that type are not held liable for exercising governmental functions and there is a twilight zone where it is hard to draw the line between what are corporate functions and what are governmental functions, but the decisions in practically all the states, I think, are about along the same line. You can't hold a city or county for governmental functions, so it seems to me this whole section should stand or fall together. If you want the public bodies held liable, all right. This act now says so; if not, then you exclude them all.

Mr. PIATT: Mr. Chairman, I move an amendment, to strike out the whole section. Seriously this thing is a practical matter and not a theory, and this proposition to charge the state and make the state liable in damages for the negligent act of its employees

is such a radical departure from the policy generally, that the states, in my judgment, in many, if not nearly all instances, will decline to follow it, and that being so we won't get a uniform act and we won't get it through and we will have done this work for nothing.

Mr. CHILD: I second the motion.

Mr. FREUND: This section is in no sense, I believe, essential to the entire scheme of the act. It could be cut out and the act remain practically as it is but for this one provision. Now I think myself the section is extremely desirable that is proposed, and I also see very great difficulties in proposing the measure to the different legislatures. Would it not be possible to submit that with liberty to the various commissioners in the various states to drop it without dropping the entire act? I think that would be a reasonable compromise. I think in many states it would be reasonable to omit this; in other states it might go through, and that would be so much to the good. I hope it will remain in but with freedom to the various Commissioners to use their own judgment as to submitting it to their legislatures.

Mr. PIATT: I am perfectly willing to accept an alternative, that this section be bracketed.

Mr. LONG: We will consent to that.

Mr. AILSHIE: Of course, where the constitution does not interfere, I take it, the legislature may make the state liable for negligence in any particular class of business or for any particular class of acts that it sees fit to do, but where the constitution prohibits the state being sued, of course, the legislature can not come along and pass an act of this kind and make the state liable. As most of you are aware—all of you, perhaps—there are different doctrines prevailing in the different states with reference to the liability of cities and counties in reference to negligence for the maintenance of streets and highways. For example, in my state the cities are held liable for negligence in the maintenance or failing to maintain its streets and alleys. On the other hand, the counties are liable for any negligence in the maintenance or failing to keep in repair the highways throughout the county. Now as the gentleman from Missouri suggested awhile ago, suppose we

are engaged in building an irrigation system, the state is engaged in building reservoirs and canals for the purpose of irrigating a large tract of state lands which have come to us under the admission act. The state is not liable for damages for negligence in the carrying out of that work; or if we are building a penitentiary the state is not liable. It is true we have an act providing for the carrying of accident insurance to cover all accidents and such things as that as may occur, but the state is not liable for any negligent act; so I think that we should at least strike from this section the liability of the state, and then those states that hold the county is liable, can hold the city is liable if they want to, and it will not be offensive or contrary to the constitution in those states that may have such a provision, as we have, and for that reason I would like to have the question submitted, striking out these three words in this section.

Mr. LONG: Mr. Chairman, of course, the state cannot be made liable for negligence without its consent. I do not know whether any constitutional provision is necessary, or whether it is governed anywhere in any state by constitutional provision, but in the absence of a constitutional provision you can't hold the sovereign liable without its consent. The question is whether or not these words, if enacted into law in the State of Illinois, whether that amounts to a consent or not. It may or may not. Probably it should be made more definite or stricken out entirely. Now the Committee is willing to bracket the provisions in order that we may study the question as to whether we shall leave them out entirely or whether they shall be more definite, making it plain that when enacted in a state it amounts to a consent. Unless it amounts to a consent, so far as a state is concerned, of course, the state cannot be held liable. I move the previous question on the motion of the gentleman from Idaho, and I hope we get a vote on this proposition, that is, to strike out those words. If that is voted down the Committee consents that these words may be bracketed. That means that each state may deal with this question as it sees fit.

The motion was then put and lost.

CHAIRMAN: The question now is on the tentative adoption of

all the sections included in Title IV. In the absence of further motion, that Title will be considered as tentatively adopted.

Mr. Young then read the title of Title V and titles of sections 400, 401, 402, 403, 404, 405, 406 and 407.

CHAIRMAN: This, in the absence of objection, will be considered as tentatively approved.

Mr. FREUND: Mr. Chairman, I think it undesirable as a general matter to insert a provision like Section 403, "Making False Affidavit Perjury." Perjury is a penitentiary offence, and I think it never has been taken seriously in this country. This Conference ought to be very slow in inserting perjury provisions in the law of this draft.

CHAIRMAN: The Committee will bear in mind the suggestion. Any other suggestions? If not, the sections composing Title V will be considered as tentatively approved.

Mr. Young then presented the substance of Title VI, Sections 500, 501, 502, 503, 504, 505, 506, 507, 508 and 509.

Mr. YOUNG: In Section 509, in line 3 the last word in the line is "hand;" that should be "emergency," because some emergency brakes are not hand operated.

Mr. Young then presented the substance of Sections 510, 511, 512, 513 and 514; also Sections 515, 516, 517, and 518.

Mr. YOUNG: Then there are the alternate sections 518, dealing with head lamp specifications, test and approval. On page 50 in the note, paragraph 5, there is an omission that Mr. Davis will give you.

Mr. DAVIS: In Specification 5, down towards the bottom of the page in the 3rd line, after "median vertical plane" insert "not less than five thousand apparent candle power nor less than this amount anywhere in the line connecting these two points."

Mr. PIATT: In regard to Section 511, the subject of "Mirrors," as I understand the section you give the alternative of either putting a mirror on the front end or letting a fellow turn his head and looking behind to see what is coming. Have you considered the question of whether or not you shouldn't limit it to mirrors? In other words, if a car is going 50 miles an hour, if the fellow in

that car turns his head one second his car has gone forward 60 feet. Instead of leaving that provision to turn around and look behind him, it may be that what you ought to require is that a car shall be so equipped that a man can face forward all the time and see the road from behind as well as front.

MR. YOUNG: The matter will be considered. We have given it some consideration but would be glad to give it further consideration.

PRESIDENT MACCHESNEY: In that connection, Mr. Chairman, I think it would be wise to consider the location of the mirror because the average mirror placed in a car is only for the purpose of watching the speed cop, whereas if a mirror is to do any good, prevent accidents, it has to be on the side of the car, otherwise it practically does not do any good to prevent accidents. If there is to be a compulsory provision with reference to mirrors, it seems to me that some consideration should be given to the location of it and the purpose for which it is put there.

Mr. Young then read titles of Sections 518, 519, 520, 521, 522, 523, 524 and 525.

CHAIRMAN: If there is no objection the sections composing that Title will be considered as tentatively approved.

MR. PIATT: I would like to ask the Committee one other question, and I think the question I have in mind if it isn't covered somewhere else it should be covered in this section, namely, in the average street railway car you see in the front end by the motorman a sign reading, "Don't talk to the motorman," and that's in the interest of safety of operation. Now you can go out here on the street, in any one of our metropolitan cities, and you can find a driver of an automobile with a small child sitting in his lap between him and the wheel, or a dog in his arms between him and the wheel; and I submit that in the operating of motor cars as well as in the operating of street cars there should be some limitation put upon the operator as to the amount of stuff, especially live impedimenta he may carry in his arms between him and the wheel for safety.

Mr. Young then presented the substance of Title VII, Sections 600, 601, 602, 603, 604, 605, 606, 607, 608, 609 and 610.

Mr. BEERS: May I ask, Mr. Chairman, does Section 608 mean that on all occasions on all country roads the driver shall drive on the right half?

Mr. LONG: Unless it is impracticable.

Mr. BEERS: Isn't it rather strong to say that "On all occasions the driver" shall drive on the right side? Of course, we all know that on country roads we drive more in the centre than we do on the right side. Shouldn't that be toned down a little?

PRESIDENT MACCHESNEY: It is felt that if people more generally would observe that rule that a lot of accidents would be avoided, because if a man is driving on the right-hand side of a road, if the road permits, collisions are less likely to occur than if he were driving in the centre. That seemed to be the general impression after a full discussion at Washington.

Mr. WILLISTON: Yes, they all do it, but I wondered if we weren't increasing crimes rather excessively, when anybody who didn't drive on the side of a highway as near as possible to the edge was committing a misdemeanor every time he did it?

Mr. YOUNG: This applies to all highways unless, of course, it is impracticable. You take in the State of New York, and you've got roads running through the country, broad boulevards, where there is place for three cars to go abreast and there's a very heavy traffic. Now that's a country road. It is perfectly practical to keep to the right side, and if you do you won't be apt to have trouble. Of course, other country roads where there is practically just one track and where you naturally would drive in the centre of the road and it wouldn't be practical to drive anywhere else, it isn't designed by this to fix it so that on this narrow country road that has only one track you have got to ride out in the ditch.

Mr. TUNNELL: I would like to say in regard to that, I am very strongly in favor of that proposition. There are a great many sections of the country roads now divided by centre lines, as you know, defining the place where a person should drive, going in each direction, and there can't be any damage done by it and it certainly would avoid many accidents.

Mr. WASHINGTON: I would like to supplement the remarks of the gentleman who just addressed you. The necessity of keeping

to the right is emphasized if the road isn't straight. If everybody could see for half a mile that no vehicle was coming, that's one proposition, but most of the roads have curves, and if you have a rule that every operator of vehicles should keep to the right you will avoid collisions.

Mr. HUNTER: May I make a suggestion? In Section 612, subsection (b), to insert something which would prohibit one car from passing another one going in the same direction on sharp curves. We have that in our state law, and I think it is a very valuable thing, because I know of one accident where one woman was killed and two people seriously injured.

Mr. CRAM: Along that same line may I suggest that also in connection with passing on a hill, going up a hill? We have that in our state law.

Mr. Young then read the titles of Sections 611, 612, and 613.

Mr. TUNNELL: Mr. Chairman, I think the language of Section 613 is rather strange. I was wondering if that doesn't prohibit anybody from trying to prevent another passing him at all. Is that the intention?

Mr. YOUNG: I think it is the intention that where a man comes up and signals for the road, the fellow ahead shouldn't step on the gas and have a race with him.

Mr. TUNNELL: Does the Committee think it would be better to do that or provide that after the party has pulled out that then there shouldn't be a race? In other words, a person is not compelled to get behind another and take his dust in all cases simply because he blows, is he?

Mr. YOUNG: We'll consider whether that takes care of it. It has got to be a practical working rule there, of course.

Mr. Young then read the titles of Sections 614 and 615.

Mr. CHILD: It doesn't seem to me that that's a proper provision in an act of this kind, Section 615. It relates to only the business part, it's indefinite. Moreover, in many cities—I think this one does—they permit turning in the midst of a street. It helps clear the street, and I think they do in New York City.

Mr. YOUNG: That, Mr. Child, is somewhat of a difficult question to know. Of course, it is very desirable, among other things, to establish a uniform rule of the road so that a man driving from one place to another, from one city to another, and from one state to another, may know what to expect. Now there are two sections here in the alternative, one providing that the turn shall be in the centre of the block, and one providing that it shall be at the intersection, because we didn't know ourselves exactly which one we ought to take. It is about evenly divided. Some cities have one way and some cities have the other. This act allows for special regulations in cities that are governed by proper special signalling devices or policemen at the corners, but it was thought that a provision that would in a general way govern whether you could or couldn't turn in the centre of a block, might be helpful to the general traveling public. The two provisions have got to be considered further by the Committee, but it was thought that one provision or the other—possibly the phraseology should be clarified or made better—should be contained in this act.

Mr. Young then presented the substance of Sections 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, and 632.

Mr. BAILEY: Mr. Chairman; I would like to inquire of the Committee whether it is worth while to put in anywhere under what circumstances an automobile shall be considered as an outlaw. We have in Massachusetts a great deal, or considerable, law on that. It often happens that an automobile becomes an outlaw and the consequence is very serious, and I wondered whether this ought to say anything on that subject. I make that simply as a suggestion.

Mr. AILSHIE: I again call the Committee's attention to the advisability of eliminating the state, when you come to revise this bill.

Mr. YOUNG: This isn't quite the same as the other provision. This provides that the rules for drivers of vehicles on the highways "shall apply to the drivers of all vehicles owned or operated by this state." That is, the mere fact that the driver himself is employed by the state shall not relieve him of his liability from his negligence. I think that's a little different from liability of the state.

Mr. CHANDLER: I believe Section 619, part of it, should be practical. It says, "This provision shall not operate to relieve the driver of a police or fire department vehicle from the duty to drive with due regard for the safety of all persons using the highway nor shall it protect the driver of any such vehicle or his employer or principal from the consequence of an arbitrary exercise of such right of way," apparently the principal of a police wagon or fire department or city or some municipality, and apparently they are made liable for the negligence of the driver. The same thing is true in Section 607, where it says, (reading).

Mr. YOUNG: Mr. Chandler, I think that may be a little broad. We did have in here originally at one time a provision about hospital drivers and ambulance drivers, and things that were private, and it may be in striking that out we have left that a little different than it should have been, especially if we are not going to impose liability for negligence on the states and municipalities. We would be glad to consider that matter and try to see if it can be adjusted.

CHAIRMAN: Is there anything further on that Title No. VII.? If not, the sections composing that Title will be considered as tentatively approved, except as amended.

Mr. Young then read the titles of Sections 701 and 702, Title VIII.

CHAIRMAN: If there is no objection that Title will be considered approved.

Mr. Young then read the Titles of Sections 800, 801, 802, 803, 804 and 805, Title IX.

Mr. SHOEMAKER: Mr. Chairman, it strikes me that it might be a good idea to insert a section in 804, include in that, making it a misdemeanor for anyone who throws anything on the highway to injure the tires of a motor car, as well as the objects specified in the section.

Mr. YOUNG: We thought that "or vehicle" would cover it—"likely to injure any person, animal or vehicle." We thought an injury to the tires would be part of a vehicle, and that was the intent.

CHAIRMAN: In the absence of any further objection, the sections proposed in Title IX will be considered as tentatively approved.

Mr. GRAHAM: Why do you include an animal? It is the first place that "animal" occurs.

Mr. YOUNG: It was thought that things that would tend to injure an animal might tend to injure cars and persons, and I think it was intended to cover everything normally traveling on the highway.

CHAIRMAN: If there are no further suggestions, Title IX will be considered as tentatively approved.

Mr. YOUNG: Title X, Section 900—I might say here that these penalties have been checked pretty carefully with the recommendations of the Committee on Enforcement of this Hoover Conference, which has been made up of judges of various traffic courts and people who have been particularly concerned in enforcements, and in some instances the penalties were made a little heavier than they were originally put in the act as it was drafted by our Committee, in consideration of the recommendations of these traffic court administrators, who seemed to think it is necessary. Mr. Young then presented the titles of Sections 900, 901, 902, 903, 904, 905 and 906 of Title X.

CHAIRMAN: Any remarks on Title X? If not, the sections proposed in that title will be considered as tentatively approved.

Mr. Young then presented the titles of Sections 1000, 1001 and 1002, Title XI.

CHAIRMAN: Any comment on that Title? If not, the sections proposed in that Title will be considered as tentatively approved.

Mr. CHANDLER: It says in Section 1000, the "time must be at least five days after such arrest." I have known instances where you are arrested and you are required to appear in court and couldn't get out of it, and if you are away from home and would like to have an early hearing and you can't have it in less than 5 days, it may be very inconvenient.

Mr. YOUNG: I don't think there would be anything here that would prevent a man insisting on a prompt trial. This really is a benefit for the man. It gives him the benefit of at least five days.

He is given five days' notice of hearing, unless he waives it. We might put that in.

Mr. YOUNG: Would it be satisfactory if you inserted there in line 4, "unless he demands an immediate hearing?"

Mr. CHANDLER: Yes.

Mr. YOUNG: We will be glad to consider that.

CHAIRMAN: Section 1000 will be recommitted, and in the absence of objection the other sections constituting that Title will be considered tentatively approved.

Mr. YOUNG: Mr. Young then presented the titles of Sections 1100, 1101, 1102, 1103 and 1104.

Mr. CHILD: Mr. Chairman, this finishes the formal part of the act. I just wish to call the attention of the Committee as to whether they have—of course, they will consider the fact as to whether the matters that are not relevant to this act will allow it to be passed under the constitutional provisions requiring the subject of an act to be expressed in the title. Now, take, for instance, Sections 317, 318 and 319 and 320: Is the changing of the rule of master and servant and in relation to damages, relevant to an automobile act, "When Parent or Guardian liable for negligence of minor?" To say nothing about the policy of whether that ought to be done or not. I don't think it ought to be done. I don't think an irrelevant substantive principle of law ought to be introduced into an act of this kind. Then follows "State, Counties and Municipalities when liable for negligence of their employees." That also seems to me to be very irrelevant to the subject.

The Committee then rose, reported that it had considered the first draft of the Uniform Vehicle Act, tentatively approved it, and recommended that it be recommitted to the committee for further consideration and recommended to the National Conference on Street and Highway Safety for its consideration. The Conference approved this recommendation.

Mr. BRUELL: Mr. President, the Committee on a Uniform Law Relating to Corpus and Income has this matter in charge and has been working on it for the past year. There was some doubt in the mind of the Chairman as to just exactly how far the

Committee on Scope and Program or the Executive Committee meant for us to go. I think we have your ideas pretty well covered now, and I would say that we have been taking the matter up with various organizations and societies and we believe that in another year we will be able to submit a tentative draft that will be reasonably safe and secure. I might say in connection with this department that the Committee relating to Real Property Acts has been having quite a time of it. Many institutions and business organizations have been unduly excited, and one gentleman asked me not long ago what we were going to try to do, whether we were going to cause a legal earthquake. I assured him that nothing of the kind was in the mind of the Conference or this department and that any legislation that would be proposed would be safe and sound. Consequently we have been using the year to try and make our investigations safe and sound, and in another year we will be able to submit a tentative draft.

The Conference then adjourned until Thursday morning, August 27, 1925, 9:30 o'clock.

Fifth Session

Thursday, August 27th, 1925, 9:30 A. M.

PRESIDENT MACCHESNEY in the chair.

PRESIDENT MACCHESNEY: The Chair will recognize Dr. Freund, Chairman of the Committee on Legislative Drafting, for the report of that Committee.

Mr. FREUND: Mr. Chairman, the Conference yesterday referred to the Committee on Legislative Drafting a little matter of style relating to the use or non use of captions that we had of each section. On examination it is found that the practise is universal in drafting these laws to introduce each section by a very brief indication of its contents, either in the form of parentheses or bold faced type. The practise in that respect varies, but the practise otherwise is uniform, and it may be that when the act comes before the legislature in each state these captions will have to be dropped. Practices in the different states vary. At the same time, in considering a measure it is of the greatest help and convenience to have some kind of a caption. The Committee

believes that that practise may well be continued, but, however, that each Committee should be left free to instruct its draftsman as it pleases, both as to the use or non use of captions and as to the particular form of captions, and that when the measure is finally printed it shall be printed as the Committee chooses, and usually it will be with captions, and that when each Commissioner in presenting the matter to the legislature of his state will confer with the member of the legislature who introduces it and will put the matter in proper form. Under the circumstances the Committee does not desire to make any recommendation, and certainly does not wish to add to the drafting rules that are now in force, which are few and simple and generally observed. That is the substance of the report, Mr. President.

Mr. MILLER: I have the report of the proceedings of the Executive Committee (reading). Mr. President, I move that the Conference approve the action of the Executive Committee as shown in the report just read.

Seconded and carried.

PRESIDENT MACCHESNEY: Uniform Act for Compacts and Agreements Between the States.

SECRETARY BOGERT: Mr. President, Col. Wigmore wrote me that he had been unable to confer with Secretary of State Hughes about the matter and that, therefore, he had no report to make.

Mr. BAILEY: I move that the Committee be continued hereafter if occasion may require.

The motion was put and carried.

PRESIDENT MACCHESNEY: That is now a separate Committee under the Uniform Public Law Section. If there is no objection, upon its re-organization, in view of the fact that the work has practically been completed, it will be consolidated as a regular subcommittee of the Uniform Public Law Section. Does that meet your approval, Senator Long?

Mr. LONG: Yes.

PRESIDENT MACCHESNEY: It is so ordered. The Uniform Aeronautics Act, Col. Bogert.

SECRETARY BOGERT: Mr. President, a year ago there was referred to this Committee certain criticisms which had been made of the Uniform Aeronautics Act which was adopted by the Conference in 1922. The criticisms originated from the Association of the Bar of the City of New York. That is not a state organization; it is a New York City organization exclusively. It does not include all the members of the bar, by any means, they are but a portion of the bar of the City of New York. It has a Committee which examines all the bills which are presented to the New York Legislature, and in 1923 the Aeronautics Act was presented to that legislature and this committee made a report on it. It reported adversely on the Aeronautics Act and also on the Fiduciaries Act, which was presented at the same time. The reasons given for disapproval of the Aeronautics Act were four or five in number, but the principal reason given was that one of the sections of the act states in substance that the space above the land and waters of this state is owned by the owners of the surface. The Committee objected to that provision on the ground that it was not in accordance with the law, that it was undesirable to have it law and that it would interfere with the use of the space by other possible inventions in the future, for example, the radio, or some modern device of that sort. The other objections were not so important, it seemed to me. Mr. Charles A. Boston, of New York City, was and, I think, still is the Chairman of the Committee on Uniform State Laws of the New York State Bar Association. He read this report of the Association of the Bar, and it seemed to appeal to him very strongly, as far as this matter is concerned, and he at once became quite active in criticising the Aeronautics Act. The result was that the Aeronautics Act did not pass the New York Legislature in 1923. It was introduced in 1924 and the same objections were met, and it did not pass then. It has been adopted in ten states now with this section which has been objected to in it, and as far as I know there has been no other criticism of the act of any importance by any Aeronautic Association, any Bar Association or other organization. The aeronautics people, in fact, are in favor of the bill, the American Bar Association has approved it, and the Committee on Aeronautics of the American Bar Association has considered it and approved it.

We examined these objections of the Association of the Bar of the City of New York, and in a written report, which is printed and available to you, we considered them and discussed their validity. The substance of our reply is that we do not believe the reasons given are sufficient to justify the Conference either in amending the act or in repealing it and revoking its approval. In the first place, the matter was considered by the Conference, expressly considered, in Cincinnati in 1921. This matter of the insertion of a section with respect to space ownership was discussed, and it was definitely decided that it was desirable to put such a section in. Therefore, the Conference would not be amending the act or appealing the act on account of some newly discovered evidence, so to speak, but would be reversing itself on a question to which it gave mature deliberation in 1921.

In the second place, it seems to me that there can be no possibility that either the federal government or any state government is going to be embarrassed in its use of the space above the lands and waters of this country by any such declaration. There are already federal laws and regulations with respect to the radio, there has been no embarrassment on account of this section being in effect in ten states of the union, and it would be absurd to think that the federal government under the interstate commerce clause could be embarrassed by any state law with respect to space ownership. The federal interstate commerce power would certainly be broad enough to prevent such embarrassment. Then, we believe that we are entitled to call into effect here a provision of statutory construction which is, in substance, that when a statute is concerned with a special subject and not with the whole general field of the law, and makes a statement on that special subject, it does not exclude other rules of a more general nature with respect to the question. Because we say that there is space ownership in the individual citizens of a state, subject to a right of flight, we do not thereby say that there are not other public rights in that space. For example, there is one admitted public right in the space above the lands and waters of any state which is not mentioned in this act, namely, the right of navigation over the navigable streams of the state. That occupies certain space and uses certain space which is very close to the lands and waters of

private individuals, and yet there can be no doubt that such navigation is lawful; so we do not anticipate that there will be any possible embarrassment to society as modern inventions develop, from this section. We think it is very unfortunate to amend or repeal any of these acts unless it is positively necessary, and Col. Hinkley, of Maryland, who was the Chairman of the first Committee on this subject, I understand, agrees with me in this matter. In fact, he is a member of the Committee and has signed the report; so our recommendation, therefore, is that the Conference affirm its approval of the Aeronautics Act and that a copy of the report be sent to the persons who have criticised the act, including Mr. Boston, and the Association of the Bar of the City of New York.

PRESIDENT MACCHESNEY: Gentlemen, you have heard the motion of the Chairman of the Committee on Aeronautics. I may say that the President in his address, delivered Tuesday, reviewed this whole controversy at length, and in my address I recommend that we concur in the recommendation of the Committee. May I also state that these criticisms were before the legal committee of our Air Board of Chicago, where I reside, and we went over them very carefully, and our counsel reached the same conclusion, that Mr. Boston was mistaken in his views with reference to this act, and they approved the act for passage by our state legislature.

Mr. FREUND: Mr. Chairman, I believe the Committee has made a very excellent statement of its position as against the criticism offered in New York. At the same time I think it is true, as a matter of general principle, that it is unwise in a measure of this kind to state general propositions of law which are not absolutely essential to the measure. If you will examine that Aeronautics Act, I think there are two sections, one relating to ownership and the other to sovereignty. Am I not right?

SECRETARY BOGERT: Yes.

Mr. FREUND: If you omit these two sections you leave the act in every essential respect just as it is. I am not prepared to say that there is any actual embarrassment that will come from these two sections, but I know that there will be embarrassment of a technical character when you present these measures in legislative

bodies that are inclined to be critical. They will say, "What are you going to do here? That has never been stated before," and that will raise a question of considerable doubt, and you will immediately get the entire Committee of the Judiciary, to which this act will go, against you, and you are put on the defensive. If it is true, as I believe it to be true, that the act will not suffer in the least by the elimination of these two sections, I would suggest that it be left to the judgment of each state commission, in presenting the act to the legislature of the particular state, to either insert or omit these two sections. I feel very strongly that in Illinois it will be simpler if the matter can be presented with these two sections eliminated. I do not remember the discussion in Cincinnati, but certainly if my attention had been called to it at the time, I should have protested against the insertion of these two propositions, as unnecessary and possibly embarrassing, although the Chairman or draftsman might have convinced me as a matter of law that there was no actual danger. I think it is a good, sound, general rule in a statute not to say anything more than is absolutely necessary, and I wonder if the Committee would think it contrary to the rules of the Conference, if there should be a certain discretion left, as is usually left anyway, to the State Commissions to use their own judgment in the matter and if they deem it wise, to present that measure in their State without these two sections.

PRESIDENT MACCHESNEY: I understand that the substance of the motion of the gentleman from Illinois is that the Committee bracket these two sections.

Mr. GRAHAM: I will second that.

Mr. WASHINGTON: Mr. Chairman, it seems to me that that procedure will, in a measure, be a defeat of the organic law of this organization. The end aimed at is uniformity, to look at a statute in one state and know that that's the law of the other state. When you bracket these two sections, which are deemed so unimportant and immaterial by the distinguished gentleman from Illinois the law ceases to be uniform.

Further consideration of the criticisms of the Uniform State Law for Aeronautics was postponed until Monday, August 31.

PRESIDENT MACCHESNEY: The Uniform Mechanics Lien Act.

MR. IMLAY: Mr. Chairman and Gentlemen of the Conference: The origin of this subject and the appointment of the Committee was pretty thoroughly covered in the address of the President. The plan to study and report upon the subject of a Mechanics Lien Law arose out of the activity of the Department of Commerce. An invitation was extended to the President of this Conference to be represented there personally or by some representative whom he might name, on a Committee which was organized and which began its work in February in the Department of Commerce, to study and formulate what was known as a Uniform Standard Mechanics Lien Law. Now the gentlemen who met in February, all of them very eminent men, men who are very well qualified by training and by practise to know the most about this subject—when I tell you, for example, that the Presidents of certain National Builders' Exchanges, Architects' Associations and the Presidents of certain Casualty Companies engaged in writing building contracts, have been present and have been devoting careful and thoughtful attention to this matter, you will see what I mean when I say that the Committee deserves the respect of everybody. The Committee, however, proceeded or started its work without any experience in the formulation of uniform state laws. It was very fortunate that President MacChesney was able to go there ahead of the beginning of the work and to point out the experience of this Conference and the desirability of having the work of the Committee in the Department of Commerce carried on in co-operation with this Conference, and when I was named by him as the representative temporarily of this Conference in the sessions of this Committee in the Department of Commerce, I was able to state again to the Committee there something of the experience of this Conference and the desirability of the Committee in the Department of Commerce working in co-operation with this Conference, and in the report which is printed and which is before you, you will notice on the fourth page that we were able to have a resolution passed which committed the Committee of the Department of Commerce to co-operate with this Conference, and committed it to the proposition that it would secure ultimate

agreement with this Conference on any draft of a Mechanics Lien Law that it might formulate. It might seem to you gentlemen, as it did to others with whom we discussed this matter, somewhat curious that the Department of Commerce should attempt to work on a law that has to do with states as distinguished from the federal government, but this is not a new activity in the Department of Commerce, and it is another illustration of what doubtless will go on from time to time. You have seen in connection with the discussion of the Uniform Highway Act how that matter is a matter of concern to the Department of Commerce, and I venture to say that we shall have from time to time numerous illustrations of the same thing. We felt then, and it was so felt by the Executive Committee when the matter was referred to it in Chicago in February, that it was important in this instance that we should co-operate to the extent that we could and by so doing avail ourselves, not only of the very excellent help that might come from this Committee but of the resources that were made available for the work; and in that connection you will be interested to know that in the study of the underlying data of the accommodation of such a law, the Committee followed our suggestions. They were able with the appropriations at hand to retain a man, a very able man, who began then and has continuously since been spending all of his time upon this subject. We had, therefore, the advantage, without expense to ourselves, of having a man proceed to do the underlying work by continuous application to that task, exclusive of every other task, the underlying work which sometimes is the greatest burden upon individuals and members of this Conference, and the matter of the greatest expense. It was thought then—and that constituted one of the most serious embarrassments in our way—it was thought by these gentlemen who met at the first time that they could formulate a law some time between the end of February and the time of the meeting of this Conference that could be presented here in the form of a tentative draft, but, fortunately for us, but more fortunately for the subject matter involved, it was soon found that the amount of research preliminary work would not make that possible. The resolution of the Executive Committee in Chicago in February, recommending that this Conference give priority to

certain measures that came out of the federal government, becomes unnecessary now in view of the fact that the Committee and the Department of Commerce found it could not prepare anything in the way of a tentative draft and have it ready for presentation to us at this Conference. We are here now merely to make this report of progress.

I should add to what I have said that it was necessary for the President to act for our Committee, to act without a preliminary action of the Committee on Scope and Program, but the Committee on Scope and Program in Chicago in February approved of the subject matter of a Uniform Mechanics Lien Law as a subject for study by this Conference. The Executive Committee gave its approval to the action that had already been taken, and I take it if this Conference approves the recommendations of this report it will carry with it a confirmation of what has already been done. Now the recommendations of the Committee, as they are contained in this report which is before you, are three. The Committee recommends that this or a similar Committee be retained for the purpose of giving further consideration to the subject of a Mechanics Lien Law; secondly, that this Committee or another Committee be authorized to prepare and submit at the next Conference a tentative draft of a Uniform Mechanics Lien Law in as close co-operation as may be possible with the Committee in the Department of Commerce; and thirdly, that a sufficient appropriation be given for the purpose of carrying out these recommendations, and Mr. President, I move that these recommendations of the Committee be accepted.

The motion was carried.

Mr. CLEPHANE: The Act relating to Uniform Marriage and Divorce is being worked upon and progress is being made, but it is not in shape to present to this Conference. I was under the impression that authority was given to this Committee to continue its work in that regard.

PRESIDENT MACCHESNEY: The Chairman of the Section asks that the Committee be continued for further consideration of the Act, and that leave be given to the National League of Women Voters to address the Conference some time before the close of

this Annual Conference, and that the Committee be requested to make a further report next year.

The motion was carried.

PRESIDENT MACCHESNEY: With reference to the Uniform Act for Joint Parental Guardianship of Children?

Mr. CLEPHANE: That act, I regret to say, Mr. President, has not been prepared. Why, I do not know. Probably the Chairman of that particular Committee was not able to devote his time and attention to it. I would suggest that the new President give consideration to the idea of appointing some other Committee, if necessary, or retaining the matter under the jurisdiction of the particular Committee which has already been appointed; at any rate, there ought to be something done which I regret to say the present Committee has not been able to accomplish so far.

PRESIDENT MACCHESNEY: The Chairman of the Section on Joint Parental Guardianship of Children asks that the Committee be continued under this section but that consideration be given to the personnel of the Committee by the incoming President.

Carried.

Mr. CLEPHANE: There is one further Act, the Sanitary Bedding Act, which, owing to the resignation from this Conference of Mr. Corthell of Wyoming, has not been prepared. There will have to be, I assume, a new head of that Committee appointed for that purpose. I move you the same motion that has just been passed, that the subject matter be retained in this Committee for further consideration and the appointment of a new committee chairman.

The motion was carried.

The Conference then went into a Committee of the Whole for the purpose of considering the Uniform Real Property Mortgage Act, Mr. Armstrong in the chair.

Mr. CHILD: Mr. Chairman, a few words of explanation may expedite. The Conference, perhaps, should keep in mind that this is the fifth draft of the same matter that was contained in the first draft—nothing has been withdrawn or superseded. Additions have been made, and those drafts have been considered

at four different times by the Conference. There are 11,000 words, about, in this draft, which would take somewhere about an hour and a half to read if read continuously, so the reading of some of the formal matter, perhaps, we may ask to be omitted. The act is divided into three parts, three principal parts, those relating to mortgages generally, those relating to foreclosure or the remedy of mortgages, and those relating to the instrument itself or a short form mortgage. Any of these parts stands by itself. I might call attention, in view of the novelty as it was considered at the start of this Committee, to the very extensive questionnaires, investigations and requests for suggestions from all professions in the line of mortgages that the Committee has conducted from the beginning. From the first year we started out to send out questionnaires, asking for information from all of the Commissioners. That has been kept up until the last year. The act and the questionnaire has been sent for two or three years to about 1,100 college professors in the country. The life insurance counsel were circularized from the beginning. Not until the present year have we ever received any substantial suggestions from professors of law.

After our report had gone to press, the June Michigan Law Review came to our attention with a 40 page article by Professor Durfee, Professor of Mortgage Law of the Law School of this State, a very elaborate discussion. The week before last we got from Professor Campbell of Harvard an elaborate consideration of some parts of the act with suggestions and a discussion of the redemption features, which had been discussed by Professor Durfee. Now we have gone over those criticisms or suggestions and considered them, and notwithstanding the fact that we had gone to press and the act is in print, we have made some changes in the text, not substantial. These changes have been, some of them, principally because of Professor Campbell's suggestions. I may say generally that the Committee since we have gotten here have considered his suggestions, that in view of the fact that the question will arise, that in a general way Professor Campbell's suggestions assume and are based upon the idea that the decisions of the courts where this scheme of foreclosure has existed about fifty years, that those decisions would not be taken as a part of

the act and the act would not necessarily be read in the light of those decisions in other states and, therefore, it is necessary or desirable in this case to elaborate what those decisions are, or put in the statute what those decisions have held. The Committee have concluded that the more you multiply words, the more words you have to go wrong on in decisions and to change in the different states, and we do not agree with Mr. Campbell's suggestions or conclusions, because we think the result would be bad. It would be crystallized in ideas that ought not to be crystallized, and it would be making the act unnecessarily long and prolix. I might suggest also that those who have discussed the act have used the former reports of the Committee as authoritative and quote from those reports as authority.

The Life Insurance Council at their meeting in Hartford in April or May—we sent them 50 copies on request—and Mr. Ewing of the Metropolitan Life Ins. Co., Assistant Attorney, read quite an elaborate paper on the act before them and with no criticism and a commendation of the act, which is printed in the report, and we have a letter since I have come here saying that he hopes the act will be adopted, and so we have at last, we think, the united support of the entire mortgage interests of the country so far as we know.

The changes in the act as printed we will consider as we go along, I think, without trying to suggest them now. We have made a table of contents in accordance with a very desirable scheme that the Conference has been adopting in late years, which was absent in some of the former acts, which consists of the headlines of the sections and are framed especially for the purpose of indicating what those sections contain, so that by running over the table of contents a pretty fair synopsis of the act is found by one familiar with mortgages and mortgage foreclosures.

We have the title printed, and we think it is sufficient, and have put the act up in a way that it may, if printed separate from the notes, be introduced in any legislature in the country by simply adding the name of the state by which it is enacted.

Now, as to what the act includes: mortgages or trust deeds or, the scheme of foreclosures. When we started out, we were in the

situation of about three-fourths of the states knowing nothing about anything but a mortgage. I must confess that I hardly knew what a trust deed was. I found that the members of the Conference knew no more than I did about it; and I found that those who had trust deeds didn't seem to realize or understand what a mortgage was fully and completely. Some ten states used trust deeds exclusively. Then there was no foreclosure on those; those are forfeitures practically. Then we had 28 states that foreclosed in no other way except by suit, and there were four or five other states which had a so-called foreclosure by advertisement, which we followed in Minnesota, and we in those states considered it a hardship to have a foreclosure by action. Those who foreclosed by action would hardly entertain the idea that there was any possible method by which you could foreclose a mortgage out of court. We had the situation of Wisconsin, right next to Minnesota, with a foreclosure by advertisement act, the same as ours. We had from the beginning of the history of the state foreclosed mortgages under the advertisement system, and Wisconsin had never used it. You ask, why. Wisconsin lawyers say, "Well, we don't think it can be done. We don't think the title is good;" but the same mortgage companies of the country were loaning more money in Minnesota getting titles under foreclosures, or as many, as they were in Wisconsin. There was that anomalous situation of those two states right together. By accident we found out why they don't foreclose mortgages in Wisconsin by the method we do in Minnesota. On one of our questionnaires a Milwaukee lawyer stated, "Our act doesn't provide for any attorney's fees." That was the secret of the whole thing.

So it was insisted from the beginning of the first conference that we should draw not only a Mortgage Act, a Mortgage Foreclosure Act but a Trust Deed Act. Well, the chairman and draftsman didn't know much about trust deeds, and it seemed that everybody's suggestion was that we have got to have two wholly separate acts. We first attempted to define trust deeds as a mortgage, and put them together. After the second or third year we said, why not call a trust deed a trust mortgage and use it just the same as you use a mortgage? So finally this act, as the last one did, treats trust deeds as mortgages, and has no separate act for

trust deeds, and although we see no reason why any state that would adopt the act will not include the trust deed phase of it, it will only require a very few changes to eliminate the trust deed feature of the act, leaving the other undisturbed. The legislator who puts up the bill can do it by the information furnished on page 62. We did, however, think that in the short form of trust deed and trust mortgages it would create confusion to make one act apply to both, and so we have put up here a short form mortgage and a short form trust deed separate from that.

Now just a word in regard to our short form mortgage trust deed. We found that ever since 1850 there had been a legislative attempt to make short form mortgages, and we found only two states in the union who had an effective usable short form mortgage, and that was Massachusetts and New York. The difficulty was they didn't know how to do it. Massachusetts and New York had learned to set out fully in statutory form the covenants that would be used, and we think we have a short form mortgage that will work and that will be used.

Now starting on page 18, we didn't like the idea of cluttering up the front door of the act with a long list of definitions which mean nothing, until you begin to know what you are talking about. However, in a way for the purpose of a start, there is in Section 1 a statement of what a mortgage and trust deed is.

Mr. Child then read Section 1 and moved its adoption.

Mr. Brock raised the question of the effect of the act in a state like Colorado where a Public Trustee Act exists.

Section 1 was approved.

Section 2 was considered. On a motion by President MacChesney to refer back section 2 and related sections for the purpose of providing a single receiver, instead of one receiver before foreclosure and one from foreclosure to redemption, nineteen states voted yes, and fourteen, no.

On a motion by Mr. Martin to refer Section 2 back to the Committee with instructions to provide for a period of redemption prior to sale and none after sale, there was a negative vote, eleven states voting yes, and twenty-three, no.

Section 3 was approved after discussion of the receivership provisions.

Section 4 was referred back to the Committee after discussion of the effect of tender after default.

Section 5 was adopted after suggestions made.

After questions regarding the effect of negotiating a note secured by a mortgage and consequent capacity to satisfy the mortgage, Section 6 was referred back to the Committee.

Sections 7 and 8 were approved without discussion.

Sections 9 and 10 were approved, after a suggestion that the question of attorney's fees as a part of costs be made optional.

Section 11 was approved, except as to paragraph 3 which was to be reconsidered in the light of suggestions about notice of foreclosure proceedings.

Mr. Child then read Section 12 and moved its adoption.

CHAIRMAN: Any comments on Section 12? Hearing none, the Chair will declare it to have been approved.

Mr. CHILD: We are now going on to Part II, Power of Sale Foreclosure. What we have been considering we understand to apply to mortgages generally. Part II relates to the Power of Sale Foreclosure, but it also contains a provision, the last section of it, which incorporates certain principles of this part into foreclosure by suit. The last Conference voted that we should not bring in a draft of foreclosure by suit for several reasons, that foreclosure by suit is by procedure peculiar to each state and that if this is workable and there is the additional remedy of foreclosure by suit, according to the well established principles, it is not desirable, but in this draft we have incorporated at the end thereof a provision by which the redemption of this part and certain other phases of it, may apply to a mortgage foreclosure which will regulate foreclosure by suit. That can be considered when we come to it.

Mr. Child then read Section 13 and moved its adoption.

CHAIRMAN: Any other objections to Section 13? The Chair hearing none will declare it to have been approved.

Mr. Child then read Section 14.

Mr. CHILD: The effort has been in the act to keep as much off of the record as possible. There is a condition in this country where in large cities the question of records is becoming a serious question, the expense and the accumulation, and the effort in this act is to provide for as little record as is necessary. In this case, instead of requiring, as we have, the recording of the power of attorney, we leave it to be filed or to be recorded, as the state may determine. I move its adoption.

CHAIRMAN: Any objection to Section 14? Hearing none, the Chair will declare it to have been approved.

Mr. Child then read Sections 15 and 16 which were approved.

Section 17 was approved, after discussion of the effect of failure to give notice under it.

Section 18 was approved after discussion of the power of deputy sheriffs to sell and the place of sale.

The Committee then rose, reported progress and asked leave to sit again, which was granted.

Mr. MILLER: The amendments to the Constitution and By-Laws were to have been here for distribution this forenoon. They have not arrived but will arrive during the noon hour, and they will be placed on your desks so you can have them at two o'clock, and I hope you will examine them early, because it is the desire of the officers to take the matter up some time during the afternoon session.

PRESIDENT MACCHESNEY: We have just another minute or two. Judge Clevenger, can you make the report of your Committee on Securing Compulsory Attendance of Non-Resident Witnesses?

Mr. CLEVINGER: Mr. President, those of the Conference who were present two years ago will recall that the Committee reported this bill at Minneapolis, and after a very lively discussion, on motion of our late lamented Walter George Smith, it was sent back to the Committee to be redrafted with a brief to accompany it on the constitutional questions involved. Last year it was impossible to do that on account of lack of an appropriation for a meeting of the Committee to perform that kind of work. At the

last February meeting in Chicago, we hoped to get that done but it turned out that there were no members of the Committee present except Commissioner Sims of Alabama, Commissioner Imlay and the chairman, and Commissioner Sims and Commissioner Imlay both had tentative drafts of bills that had to be prepared for this Conference, that are now on the program, so for lack of time it has been utterly impossible to accomplish what we were directed by the Conference two years ago to do. I suggest that the Committee be continued, but that either a sufficient appropriation be given the Committee to have this work done or that some member of the Conference be put at the head of the Committee who has time enough himself to do it, because as the Conference can easily see if we not only redraft the act but prepare a brief on the constitutional questions, as we were directed to do, it is going to take a lot of work to do it and the ordinary member of the Conference hasn't time enough to do that sort of thing.

PRESIDENT MACCHESNEY: The motion is that the Committee be continued under the Section of Civil Procedure, and that the Executive Committee be requested to make an appropriation, if possible, or in the absence of such appropriation a member of the Conference be secured to undertake the work.

The motion is carried.

The Conference then adjourned until 2 p. m.

Sixth Session

Thursday, August 27th, 1925, 2 P. M.

President MacChesney in the chair.

The Conference went into a Committee of the Whole for the further consideration of the Uniform Real Property Mortgage Act, Mr. Hardin in the chair.

Section 19 was tentatively approved, after discussion of the conclusiveness of validity of foreclosure and the effect of the recording provisions.

Sections 20 and 21 were approved without discussion.

In discussion of Section 22 a motion to bracket all figures as to fees was lost. The Committee accepted a motion to strike out the

last paragraph of the section. The section was approved, after discussion of the wisdom of fixing sheriff's fees.

Sections 23 and 24 were approved without discussion.

After objection to the insertion in Section 25 of provisions allowing redemption, the section was approved.

Sections 26 to 30 were approved, without discussion except as to verbal matters.

Section 31 was approved after a statement by Mr. Child as to its purpose, and discussion as to the limitations provided in the section.

Sections 32, 33, and 34 were approved without discussion except as to verbal matters.

Section 35 was approved after discussion as to the length of time within which redemption must occur.

Section 36 was then discussed, including the advisability of inserting provisions regarding foreclosure by action and the redemption provisions. The section was approved.

Section 37 was approved, after discussion of the advantages of short forms.

In discussion of Section 37A, a motion to strike out the words "—per cent" in the fourth line from the bottom of page 51 was lost. After discussion of the effect of failure to pay taxes and assessments, the section was approved.

Section 38 was approved without discussion, except as to verbal changes.

After discussion of verbal matters, Section 39 was approved. A motion to transfer Section 39 to the beginning of the act was carried by the following vote:

Yes	Iowa
Alabama	Mississippi
Connecticut	New Jersey
Delaware	New Mexico
Idaho	Ohio
Illinois	Pennsylvania
Indiana	Rhode Island

Yes
 South Dakota
 Tennessee
 Utah
 Vermont
 Wisconsin
 Wyoming
 Total: 19

No
 Arkansas
 District of Columbia
 California
 Georgia
 Kansas

Maine
 Maryland
 Massachusetts
 Minnesota
 Missouri
 North Dakota
 Texas
 Virginia
 Washington
 West Virginia

Total: 15

The Committee then rose, reported progress and asked leave to sit on the following morning, which was granted.

The President appointed a Committee on Resolutions.

Mr. MILLER: Gentlemen of the Conference: You have upon your desks the "Report of the Executive Committee on Certain Proposed Amendments to the Constitution and By-Laws." I assume you have all examined them. On the first page, the last 3 lines, the letters (a), (b) and (c) should be capital letters. On the 2nd page the (a), (b), (c) and (d) in the 2nd to 5th lines should be Roman numerals, and on the 2nd page under Section 4 the small letters should be changed to capitals. On page 3 the paragraph that commences on page 3 should be changed, striking out of the 1st line the words "between sessions of the National Conference." That is done for the purpose of giving the President the right to appoint Committees, special Committees at any time, not simply between sessions but at any time; and to the paragraph should be added the following: "He shall report such action to the Secretary and to the Executive Committee." Then at the bottom of page 3 the paragraph commencing as No. 1 of the By-Laws and ending on page 4 should be changed to read as follows: (Reading). The change in the printed form is made so as to designate certain duties to the newly elected President before he actually takes

office. On page 7, the last page, in the 3rd from the last line, the words "at the expense of the Conference" should be inserted, so that the last sentence of the section will read: "The President may designate the time and place where the sections and Committees may hold their meetings and no section or committee shall hold a meeting at the expense of the Conference at any other time or place except upon the approval of the chairman of the Executive Committee."

Mr. Chairman, I move you that the amendments to the Constitution be considered read, and that the report as amended by the statements just made be approved, and the amendments to the Constitution be adopted.

PRESIDENT MACCHESNEY: Gentlemen, you have heard the motion by the Chairman of the Executive Committee, that the amendments proposed by the Executive Committee to the Constitution having been read and discussed and a roll call of the states having been had upon them, that they do now be approved. As many as are in favor of the motion say "Aye." Opposed "No." The motion is carried and they are adopted. The motion is now due upon the by-laws.

Mr. MILLER: I move you that the By-Laws as read and amended be adopted by the Conference as though a roll call had been had thereon by states.

Mr. HART: I move a separate vote on Section 15.

PRESIDENT MACCHESNEY: If there is no objection there will be a division and the motion will be involved as to those sections other than Section 15.

The motion was put and carried.

PRESIDENT MACCHESNEY: The amendments are adopted as printed. As to Section 15 (interrupted).

Mr. MILLER: Section 15 of the By-Laws at the present time reads as follows: (Reading). The amendment is to add to this By-Law the following: (Reading). Mr. President, I move you the adoption of the amendments to Section 15 of the By-Laws.

Mr. HART: I move that we amend paragraph (1) of the proposed amendment by adding thereto the words "or undo any affirmative

act of the Conference." Now, gentlemen of the Conference, I have been a member of the Executive Committee for eleven years. The Executive Committee consists of ten members. Six is a quorum, four is a majority of the quorum, and I can't believe that this body, composed of 150 members, is ready to trust four members of the Conference, no matter how conscientious they may be. This article, "The Executive Committee shall have full power and authority in the interval between meetings of the National Conference to do all acts and perform all functions which the Conference itself might do or perform," substitutes for the Conference four members of the Executive Committee, and I submit that the Conference is not yet ready to give that power to any four or forty members, and I submit that the amendment should be amended by adding "or undo any affirmative act of the Conference."

Mr. CROOK: I think there are other reasons why it shouldn't be adopted. The Executive Committee could expel any member of this organization. That's one of the things the Conference can do, and what other things may it not do under this? I move as a substitute that the provision be recommitted to the Executive Committee for further consideration.

PRESIDENT MACCHESNEY: Will the gentleman from Texas permit the President to just state some of the reasons which led to this? In the first place, you must have some faith that your Executive Committee is not going to run amuck under general power. It will be recalled that last year the President, under instructions from this body, presented the Arbitration Act to the American Bar Association, and that under a technical objection the American Bar Association refused to approve that act. Notwithstanding the fact that the National Conference had instructed that the act be sent out to the Legislatures for passage, and, therefore, the Conference had taken an affirmative action last year in instructing your officers to send out this act for adoption by the various states, although the American Bar Association had refused its endorsement, it was going to be a very delicate situation if we in the face of that, instead of reconsidering it, had sent that act out for general adoption by the states. It would have been

regarded as an unfriendly act by the American Bar Association and would have caused unnecessary and harmful conflict. The Executive Committee, therefore, took the responsibility of undoing the affirmative act of this Conference, namely, to send it out, and did not send the act out, because the Executive Committee by vote held the act so it might be reconsidered by this Conference and you gentlemen should determine whether or not you desired to recommend it to the states, and notwithstanding the adverse action of the American Bar Association last year, you have acted upon it at this Conference, and the Executive Committee's unconstitutional action in that instance saved this Conference from an embarrassing situation; and it is believed that this power, therefore, should in the future be constitutionally conferred, because otherwise it may be necessary at times for the Executive Committee to act unconstitutionally in the best interests of the Conference.

Mr. HART: The solution of the situation developed by the President is very obvious. When the final vote is taken on an act and it is recommended to be sent out to the various legislatures for adoption, add a provision, "providing the American Bar Association approves it." That could be easily done, and that is the situation in every case. The fact that this Conference reapproved the Arbitration Act shows that the action of the Executive Committee last year was unwarranted, because it did an act it had no right to do. The Conference adopted the act exactly as it did before.

PRESIDENT MACCHESNEY: The chair doesn't desire to enter into a debate from the platform, but wants to call attention to the fact that you have again directed that this act be sent out to the country as a whole. I take it, having reconsidered the whole question, you will desire at this time to send it to the legislatures for adoption, regardless of whether it be approved by the American Bar Association or not, so the question is different from what it was last year, and the clause suggested by the Commissioner from Louisiana would not meet the situation which your officers had to face.

Mr. O'MAHONEY: May I suggest that the action of the Execu-

tive Committee last year, in failing to send out the act as desired, was not undoing an affirmative act of the Conference at all, but it was merely a failure on the part of the Executive Committee to follow instructions, for which I am sure the Conference would not attempt to rebuke the Committee but rather praise them, but this goes much further. It seems to me that the Executive Committee might offer some explanation to the Conference why it asks this added grant of broad and general powers to perform the acts of the Conference when it is not in session. No explanation of that has as yet been afforded.

Mr. YOUNG: Mr. President, I have been on the Executive Committee for quite a while myself, and I think there have been one or two other instances in the experience of the Conference where the Committee, because of the action of the Bar Association or because of something that developed after the acts had been approved, have held up the acts. I think those are the only instances where there has been an attempt to delay the action of the Conference. I do not think it would be a desirable thing for us to approve our acts conditional upon their being approved by the American Bar Association, and we hardly want to do that. It has been the custom, I think everyone understands that between sessions the Executive Committee discharges all the functions necessary to keep the organization running, and have actually exercised pretty full powers. They never have attempted to undo anything that the Conference has done, in the sense of revoking an approval or anything of that sort. This is drafted along the line of the corresponding By-Law of the American Bar Association, and it simply authorizes the Committee to do some things which, perhaps, it has done without any constitutional authority heretofore. Of course, it does impose a considerable amount of responsibility in the Executive Committee, and I suppose we could do some things which, perhaps, we shouldn't be apt to, as a Committee. I don't think Mr. Crook's suggestion that the Executive Committee could expel a member is very certain, because I doubt some if we could expel a member ourselves if appointed properly by the Governor of the state. I think we should have to treat him as a member here, and while I don't think the Executive Committee in making

this suggestion desired to usurp any improper authority, it's a feeling that they ought to have authority to do those necessary things by authority instead of main force. I think the amendment would not be an unwise one.

Mr. O'MAHONEY: What are the necessary things?

Mr. YOUNG: Well, we appropriate money to the Committees and handle financial matters, none of which are acted on from the floor. We ordinarily make up the budget during the sessions, and that's approved subject to amendments, because we never know when we meet here how much money we are going to have during the year. The executive committee, in fact, is the financial end of the organization. We appropriate money for certain sections. If it isn't used by that section we redistribute it somewhere where it is needed more and we really couldn't function unless somebody had the authority to do that between sessions. That's one of the principal things.

Mr. O'MAHONEY: Why wouldn't it be well then to provide for a grant of specific powers instead of a grant of general powers?

Mr. YOUNG: Perhaps you could. You might prescribe all the specific things, very much like just what acts a Board of Directors could do in a corporation, and I don't know but that is customary in some states. I have never happened to see it. They are usually given general authority to meet conditions as they arise, whatever they be. If you could anticipate in advance every specific action that the Executive Committee might be called upon to take, then it might be wise to specify them. My own thought on that would be that a wiser course would be to elect from the Conference such men on the Executive Committee as you think can be trusted and then give them the necessary discretion to handle the matter properly. I don't think under this that anything can be done different from what has been done. Occasionally things have been done, and it is difficult to put your finger on a specific thing in the Constitution whereby they could do it; in other words, they were given a more limited authority in the Constitution than it is necessary for them to exercise to carry on the functions of the organization, and this simply is an attempt to make legal the ordinary acts that have to be done. Those men who have been

in the Conference for a number of years, I think, know that there never has been anything done by the Executive Committee that anybody had any particular objection to. Of course, that action is fully reported and is always approved. There has never been an instance where the action of the Executive Committee has not been approved since I have been a member of the Committee, which is fifteen years, and I apprehend there is no danger. Of course, the Executive Committee are merely your agents, and if you think they shouldn't have any authority, don't give them any, but if you contemplate you will find that there are a great many things of all kinds and descriptions that come up during the course of the year that really have to be done or else you stand still from one year to the next, and this is simply a desire, if possible, to have an action which would justify those things which are necessary for the ordinary administration of the affairs of the association.

Mr. MILLER: Mr. President and Gentlemen: The question before the Conference and the amendment offered by Mr. Hart was discussed at length in the meeting of the Executive Committee, and after a full discussion of the matter every member present—and I think there were either 8 or 9—voted for the amendment as presented to you here, except Mr. Hart.

Mr. HART: No, there was a tie and you broke the tie by voting in favor of the amendment.

Mr. MILLER: Then I am mistaken about that particular vote. I thought that was another vote. I will stand corrected, but it was discussed at that time and it was determined after discussion, at least by a majority, that it should stand as we have reported, and I submit that if you are afraid that your officers will do something that you do not want done, the thing to do is to have some other officers, and as far as I personally am concerned I will yield my place to any man in the room, because I have had more worry over the finances of this Conference in the past year than I have had over my own for a number of years.

Mr. CROOK: I would like to make this further remark. Nobody has risen in defense of the Executive Committee; they have had to defend themselves, and I want to say in their behalf that this

Conference has the utmost confidence in the personnel of the Executive Committee. They have supported in every way everything they have done, but I think the attitude of the Executive Committee in asking this authority, however, is similar to that of a borrower who asks for money without security. We don't ask security here but we do ask that the thing be done in a businesslike way. Therefore, I will make a motion to recommit this to the Executive Committee so that they might reframe this amendment along lines of specific rather than general authority.

PRESIDENT MACCHESNEY: Has the gentleman from Texas any objection to taking the vote as to whether the amendment shall or shall not be adopted, and then we can recommit it if lost?

Mr. CROOK: I don't know the parliamentary procedure. If it is in order I would like to have a vote taken on my motion.

PRESIDENT MACCHESNEY: All in favor of the motion of the gentleman from Texas to recommit say "Aye." Opposed "No." The motion to recommit is lost. The motion now recurs upon the motion to adopt the amendment (interrupted).

Mr. HART: I call for a vote by states.

PRESIDENT MACCHESNEY: To adopt the amendment "or undo any affirmative act of the Conference." That's what we have been debating. We have been debating the amendment to the section as presented. As many as favor Mr. Hart's limiting the right of the Executive Committee further so that it cannot undo any affirmative act of the Conference, vote in the affirmative. Those in favor of the section as submitted vote in the negative. The roll call by states has been called for. The Secretary will call the roll.

Secretary Bogert then called the roll by states with the following result:

<i>Yes</i>	<i>No</i>
Louisiana	Arkansas
Oklahoma	California
Texas	Colorado
Virginia	Connecticut
Wyoming	Delaware
Total: 5	District of Columbia

No	New York
Florida	North Dakota
Georgia	Ohio
Idaho	Pennsylvania
Illinois	South Dakota
Indiana	Tennessee
Iowa	Utah
Kansas	Vermont
Maine	Washington
Maryland	West Virginia
Mississippi	Wisconsin
Missouri	Total: 28

PRESIDENT MACCHESNEY: The vote being 5 and 28, the amendment to Section 15 is lost. The motion now recurs on the amendment as submitted by the Chairman of the Executive Committee. As many as favor that motion say "Aye." Opposed "No." The motion is carried and the amendment is adopted. Is there any report to make upon the matter of the National League of Women Voters.

Mr. MILLER: The National League of Women Voters wired asking for an opportunity to appear before the body and present their views on the marriage and divorce question. As the matter is not coming before the body at this time a wire was sent in reply, stating the fact that the matter would not be up for discussion but that it would come before a Committee later, and asking the Committee of the National League of Women Voters to appear before the Committee of this organization at a later date. I trust that our action will be approved, and I move you that you do approve the action taken by the officers.

The motion was carried.

Mr. Hogan then presented the report of the Nominating Committee.

Mr. HOGAN: Now, Mr. President, if I may be permitted to defer the taking up of the other features of our report for a moment, I would at this point move the election of these gentlemen to the offices named.

PRESIDENT MACCHESNEY: Gentlemen, you have heard the

motion of the Chairman of the Committee on Nominations, that the Conference do now elect the officers named. Are there any other nominations? If not, the nominations will be declared closed, and if there is no objection the vote will be put in the usual way. As many as favor that action signify by saying "Aye." Opposed "No." The nominees of the Nominating Committee are declared elected as the officers of the Conference for the next ensuing year, to take office at the close of this Conference, in accordance with the Constitution.

Mr. HOGAN: Resuming our report, I would say, speaking for the Committee (Reading).

I move, Mr. President, that the recommendation of the Committee as stated in the conclusion of this report be approved and adopted by the Conference.

PRESIDENT MACCHESNEY: Gentlemen of the Conference: You have heard the motion of the Chairman of the Committee on Permanent Headquarters and Executive Secretary. Is there any discussion? If not, as many as favor it signify by saying "Aye." Opposed "No." The recommendation is adopted, and the matter is referred to the Executive Committee for appropriate action when they deem best.

Before we adjourn I would like, as a matter of personal privilege, to felicitate the Conference upon their selection of the next President of this Conference. It has been my high privilege to be associated with him for ten years upon the Executive Committee, and during my lifetime it has never been my privilege to know a man for whom I have come to have a higher regard or affection, for all the things that go to make such an association worth while. I am sure you would be glad to hear just a word from Mr. Young. (Applause).

Mr. YOUNG: Mr. President and Gentlemen: I wish to thank you for the honor which you have conferred upon me. After such a compliment as the President has paid, it would hardly be worth my while to make any speech. I simply wish to thank you for the honor and assure you I shall do, as President, as I have tried to in other capacities, the best I can to promote the best interests of the Association. (Applause).

Adjourned until Friday, August 28th, at 9:30 a. m.

Seventh Session

Friday, August 28, 1925, at 9:30 A. M.

PRESIDENT MACCHESNEY in the Chair.

Mr. ROWLAND: Mr. President, I desire to take just a moment to make a motion, that is, if I can obtain a second, I'd like to make briefly a few remarks upon it. The motion is this, that the Executive Committee be requested to make, if possible, a place on the program of this and of every Conference for a general report and discussion of the most practical ways and means to procure the enactment into law of the measures adopted by this Conference in those jurisdictions where they are not yet adopted. If I can have a second to that I would like to say a few words.

Motion seconded.

Mr. ROWLAND: I notice by the report of President MacChesney that of the 30 acts adopted by this Conference, aside from the Negotiable Instruments Law, three only have been adopted by as many as 50% of the states, and five others only have been adopted by as many as 25% of the states. I notice from the report of the Committee having this matter in charge that the results during the last two years have been more meagre than in any similar period of the history of the Conference, and it seems to me that it would be well for this Conference at each of its meetings to give some attention to this very practical part of the program of this Conference. In fact, the work of this Conference is to be measured almost entirely by the number of these measures that we adopt, that can be enacted into law. A year or two ago in our own state the legislature came near repealing the law authorizing participation in this Conference. It passed one house of the Legislature, and the argument used effectively before the Committee and before the legislature was that so few of these laws had ever been enacted in that state that it was useless to continue the commission and to provide any money for its support, and Washington has adopted, I think, five or six of the acts, and many of the states are in no better position than Washington. I heard one of the Commissioners say here the other day that his state had adopted twenty of these acts. Personally, I would like to have the benefit of

the experience of that Commissioner as to the means adopted in that state to get so many of these acts enacted into the law. It seems to me that we could well give some time and attention to this particular matter and the exchange of ideas on this very important topic, and I think it is fully as important that we should endeavor to get the thirty laws which we have now adopted enacted into law, as it is to formulate other laws to submit, because we may have no better success having them adopted than those we have already passed upon, and our work becomes largely futile. It is for this reason that I make this motion and urge its adoption.

PRESIDENT MACCHESNEY: Gentlemen of the Conference: If there is no objection this motion will be referred to the Executive Committee for their consideration and report. I might say for the information of the Commissioner from Washington that a similar motion has been made at previous Conferences from time to time and some discussion has been given to that subject and that the Executive Committee has granted permission to the Chairman of the Legislative Committee to make a supplemental report to deal with that subject at this Conference. It was for that purpose that I called on him at this time but he doesn't seem to be here. Are there any other general matters to come up now?

Cól. MILLIS, if you could give us the report of the Incorporation Act Committee at this time, we might dispose of it. It is the only undisposed of matter on our schedule.

Mr. MILLIS: Mr. Chairman and Gentlemen of the Conference: The Committee on Uniform Incorporation Act has finally completed about one-half of the act—twelve sections, to be exact. It was first proposed that the Committee present for your consideration those twelve sections and submit the remaining sections at the next meeting of the Conference, but on further consideration the Committee decided that it was better to present the act in its entirety than to present it piece-meal, and owing to illness on the part of one or two members of the Committee and business engagements of others that made it impossible for us to get a full Committee meeting subsequent to January of this year, it is necessary for the Chairman to announce to you that no further or different

report will be made at this Conference. The Committee feels that the most substantial work, perhaps, of all has actually been accomplished, although the result is in that incomplete stage that I have just mentioned, but during the last year I think I am safe in saying that more earnest study and more careful effort has been made from the foundation up, and we do feel with modest confidence that if the Committee is continued that during the ensuing year we can bring in here a completed effort that we trust will meet with your approval and with the approval of the profession and of the general public. The Committee requests that the Committee be continued and be authorized to complete its work to submit at the next ensuing meeting of the Conference.

The request was granted.

The Conference went into a Committee of the Whole to consider the second draft of the Joint Obligations Act, Mr. Dinkelspiel of California in the chair.

Section 1 was approved, with the addition at the end of the words, "Several obligors means obligors severally bound for the same performance."

Section 2 was adopted without discussion.

Mr. Williston then read Section 3 and moved its adoption.

Mr. FREUND: Mr. Williston, would you mind explaining why you put in "several obligors?" It is simply my inability to follow this quite: "The amount or value of any consideration received by the obligee, from one or more of several obligors." They must be in some relation to each other, are they not?

Mr. WILLISTON: These are several obligors for the same debt, that is, two persons sign a note for \$100 as several obligors. Anything that one pays shall be credited on the other.

CHAIRMAN: Are there any further questions? If not, the section will stand adopted.

Sections 4 and 5(a) and 5(b) were adopted without discussion.

Mr. Williston then read Section 6, and moved its adoption.

Mr. BAILEY: I would like to inquire of the draftsman whether in Section 6 it would be any better to say "shall be bound as such jointly and severally," so that you might sue the executor or ad-

ministrator separately, if you so desire? There is a Massachusetts law, that on the death of one of two joint contractors the obligation becomes joint and several, and in equity you can sue the two of them, or at law you may sue them separately.

Mr. WILLISTON: My impression was you couldn't join them at law, that they were not liable jointly in Massachusetts.

Mr. BAILEY: That's been the law for a long time in Massachusetts.

Mr. WILLISTON: It seems to me that it is a question of which is better rather than what is the law in Massachusetts. I have no objection to that suggestion. I will accept the amendment.

Mr. VANDERVORT: In our state a judgment against an administrator or special representative would not be evidence of the debt against the estate. The heirs would be bound only by a proceeding against them, and to hold that the executor and administrator are both liable does not cover, I think, in some states the liability of the estate direct. I make that as a suggestion.

Mr. WILLISTON: May I ask, suppose you want to charge an estate in West Virginia. How do you proceed? Don't you have to proceed against the executor or administrator as representing the estate?

Mr. VANDERVORT: Only in the event that there are assets unadministered in his hands. In the event that there is an estate to which the heirs are entitled, you would have to proceed directly against the heirs, making the administrator a party. Of course, if you proceeded in equity, in order that he might check his accounts, you could sustain that position. That's only for consideration, understand, it is not an objection, but a suggestion.

Mr. WILLISTON: I would suggest, Mr. Chairman, then the insertion of the words after "administrator" in the 2nd line of Section 6 the words "or estate" in brackets. I know a similar point has been made by gentlemen from several states. In others it would be regarded as rather inartistic, to speak of the estate being liable. You would naturally speak of the executor or administrator being liable as such, but if the words "or estate" are inserted in brackets, it will be possible in each state to put the words that may be there appropriate to express the idea.

Mr. FREUND: Would not the term "legal representative" cover all?

Mr. WILLISTON: I found that that was objected to. Of course, executor or administrator is the legal representative.

Mr. FREUND: Sometimes he is not the heir, and sometimes the heir is bound, but the heir is the legal representative.

CHAIRMAN: Is there any objection? If not Section 6, as amended, will be approved.

Mr. WILLISTON: The remaining sections are the formal sections.

Mr. Williston then read Sections 7, 8, 9, 10 and 11.

CHAIRMAN: If there are no objections, Sections 7, 8, 9, 10 and 11 will stand approved as the act of this Conference.

Mr. ROSE: I would like to ask whether or not it would be advisable to provide, as we have in our state, that all joint contracts will be joint and several?

Mr. WILLISTON: That is a common provision, though by no means universal. There is nothing in this act that would repeal such a provision in any state. I didn't think I would put that in. It is entirely an arguable question, and if the gentleman from Arkansas should care to take the opinion of the Conference as to whether it is desirable to insert such a section, I should have no objection whichever way the vote went.

Mr. ROSE: I just simply know that it works very satisfactorily in our state, and I merely pass that on to the Committee.

The Committee rose, reported that it had had under consideration the Joint Obligations Act and recommended its adoption by the Conference.

Mr. WILLISTON: I make the following motion;

Resolved, By the National Conference of Commissioners on Uniform State Laws at its 35th Annual Conference, held at Detroit, Mich., August 25-31, 1925, that the Act Concerning the Discharge of Obligors bound for the same Debt or Liability and to make Uniform the Law Relating thereto, known as the Uniform Joint Obligations Act, be and the same is hereby approved and adopted, and that the act is now recommended to the legislatures of the various states, the Territory of Alaska, the Territory of

Hawaii, the District of Columbia and the insular possessions of the United States, for enactment.

On a roll call by states the following states voted in the affirmative: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming. Total: 31.

There were no votes in the negative.

The President declared the act adopted.

The Conference then went into a Committee of the Whole to consider the Uniform Written Obligations Act and the Uniform Interparty Agreements Act, Mr. Dinkelspiel of California in the chair.

Mr. Williston read Section 1 of the Uniform Written Obligations Act.

Mr. FREUND: Do you think you gain anything by saying "by the person releasing or promising?" Would that not raise a question as to agency?

Mr. WILLISTON: I don't think so. I think you haven't got to put agent in every time.

Mr. FREUND: You find it in some statutes, do you not? For instance, the Statute of Frauds.

Mr. WILLISTON: Yes, but in general we haven't put it in, and I think it would be a mistake in drafting our acts every time to say that everything might be done by the person or his agent.

Mr. FREUND: I quite agree, of course, in that. I just wondered if you gained anything by saying it was "made and signed by the person releasing or promising." If those words were left out then, of course, that question could not possibly arise.

Mr. HINKLEY: Mr. Chairman, I rather favor the retention of those words. They relate back to the Statute of Frauds, "the party to be charged therewith" and "signed by the person releasing or promising," I think has a certain value, as indicating that the

promise must be the promise of the party who is to be bound. I rather prefer the text the way it is in the act as drafted.

Mr. FREUND: I do not press the point. I should favor it, but I yield, of course.

Mr. BEERS: May I ask if it is the intention of the Committee to make enforceable a mere promise to make a gift? For instance, in a moment of generosity my friend, Mr. Williston, says, "I promise to pay, or I will pay \$10,000," and he signs it.

Mr. WILLISTON: That alone does not comply with Section 1. The writing does not contain an express statement that the signer intends to be legally bound.

Mr. BEERS: Does it mean, for instance, suppose I feel good-natured and I feel rich to-day and I promise to pay John Doe next week \$10,000, and I expressly state that I intend to be bound—(interrupted).

Mr. WILLISTON: Yes, that is just what it is intended to mean.

Mr. BEERS: It junks most of our prevailing notions of law, doesn't it? It is pretty sweeping.

Mr. WILLISTON: It substitutes for the common law use of a seal, this express intention to be legally bound. If you write such a paper as that which you have just alluded to and lick a wafer and put it on, at common law you are bound. You had better not do it in Massachusetts and many other states unless you want to pay \$10,000, and it seems a better way to effectuate that sort of purpose, to make an express statement that you intend to do what you are doing and intend to create a legal obligation, than to lick a wafer. It is something, it seems to me, that a person ought to be able to do, if he wishes to do it,—to create a legal obligation to make a gift. Why not? The result of having no such provision in many states is the creation of a sort of fictitious consideration in regard to subscription papers, by means of which courts for one reason or another, as most of them do, enforce a promise to make a charitable gift. They base their action on all sorts of reasons, and occasionally some of them don't do it, but it creates a lot of litigation, I don't see why a man should not be able to make himself liable if he wishes to do so.

Mr. BEERS: Forgetting the question of the seal for the moment, I think it is pretty well ground into most of us that if there is a consideration you can make a binding promise, but that a gift must be a present thing. Now, it may be that this will cure some defects in subscription papers and things of that kind, but it would seem that it is so sweeping, so broad, it makes such radical changes, that any little incidental good it may do is very much overbalanced by the dangers which it opens up. I, personally, am very much opposed to it.

Mr. CHILD: Do I understand, Professor Williston, that an express statement to be bound must have an additional express statement of an intention to be bound?

Mr. WILLISTON: An express promise must have, in addition, an express statement that you intend legally to be bound, and not merely morally bound, as every promisor is by his promise.

Mr. CHILD: Do I understand that an express promise, as suggested by Mr. Beers, would need another express promise added to that?

Mr. WILLISTON: Another express statement that you intend to be legally bound. That is not another express *promise*, but it is a statement that you intend your promise not simply to create the moral obligation which attaches to every promise, but you intend that it shall create a legal obligation.

Mr. CHILD: Then the rule applying to excluding after born children in a will wouldn't apply?

Mr. WILLISTON: I don't quite see how wills and after born children come in, but I may be dull.

Mr. CHILD: I think it does, in fact, in the ordinary statute, saying that unless one is expressly excluded by statement, that they are not bound by the will, if it is shown in any way that it was not by expression.

Mr. WILLISTON: That's why express statement is put in, so as to exclude implications.

Mr. BAILEY: This will leave a release under seal the same as it is now.

Mr. WILLISTON: Where seals are in force, as in Massachusetts.

This does not abolish seals. In many states seals are abolished, and in some of them the effect of an unsealed so-called release is rather a troublesome thing.

Mr. FREUND: I would like to ask, suppose I sign a writing, "In consideration of love and affection I promise to pay my niece on her marriage day \$10,000." Suppose she is already engaged to be married so that there would be no question of a new consideration, is that or is it not binding?

Mr. WILLISTON: It is not binding under this.

Mr. DUTCHER: But if you add "I expect to be legally bound by it," then it would be.

Mr. WILLISTON: Then it would be.

Mr. DUTCHER: As I understand it, this is an attempt to revive practically the old common law doctrine that a written contract under seal without consideration is legally enforceable. It substitutes for the seal the declaration of intention to be legally bound.

Mr. WILLISTON: That is the purpose of it, to make uniform the law in regard to that sort of voluntary promise, and to make as a substitute for the very technical and easily substituted wafer an expression which nobody can misunderstand, which clearly indicates that it is intended to create a legal obligation.

Mr. DUTCHER: I think in my state the courts never concern themselves with enforcement of any purely executory contract that hasn't a consideration.

Mr. WILLISTON: I understand this would change the law of your state.

Mr. DUTCHER: I was wondering what proportion of the states of the union practically abolish the common law doctrine and are similar to the laws of my own state, and what proportion of the states will have the affixation of a seal.

Mr. WILLISTON: I think I can tell you roughly. I suppose that a minority of the states have abolished seals altogether, a somewhat large number but still a minority. A more common provision is that in a writing with a seal the consideration shall be presumed.

Mr. DUTCHER: That's true in my state.

Mr. WILLISTON: Now, that was a frequent way of explaining the common law doctrine that a seal rendered a promise binding. It was often said that the consideration was presumed, and it is very likely that many, if not most, of the states which made that statutory enactment merely were taking over a common law expression that consideration was presumed and then changed the meaning which was attached to those words in the English books, namely, that consideration was conclusively presumed, and made it mean consideration was presumed until the contrary was proved. Under precisely that form of statute in New Jersey consideration is conclusively presumed. You go across the river into New York, where they have the same statute substantially, the presumption is disputable. So it is in most states. In a certain number of states, perhaps ten or a dozen, I should think, the seal would still have its old common law effect, so far as consideration is concerned, without any statutory interference. Now, the purpose of this act is to make the law uniform on this subject, and instead of attempting to reinstate seals in their old effect, so far as consideration is concerned, this is suggested as a better way. Seals seem to be objectionable for several reasons. In the first place, people aren't generally likely to know what is the effect of licking a seal and putting it after a signature. In the second place, when a man has signed a document, a gratuitous promise, and given it to another, it is pretty easy for that other to lick a wafer and put it after the signature. That's a fraud that might be difficult to prove. In the third place, there has been a great deal of litigation in regard to what is a seal, and it raises a very difficult question. In one case a dash an eighth of an inch long was held to be a seal. When you cut as fine as that, you are getting into troublesome technicalities. Nevertheless it seems to me it is desirable that if a man really wants to make a gratuitous promise that he ought to be allowed to do so, that the law ought to give effect to his intent. Of course, if you disagree with that fundamental proposition, you disagree with the proposed act.

Mr. DUTCHER: I think it is very desirable that the law should be uniform on the subject. The only question in my mind is whether the law should not be uniform that the courts should not concern themselves with the promise made without a consideration.

MR. WILLISTON: The result in states where that has been the attitude of the courts has generally been an upsetting of the law of consideration, for when they get to gratuitous promises, really gratuitous promises, which they wish to enforce, they hunt around and find something which they treat as consideration *pro hac vice*, though it is really not an agreed exchange. The subscription paper cases are the most striking example of what I am saying. Those are really, as the name implies, charitable subscriptions, which means they are gifts, promises to give simply because you are charitable.

MR. DIXON: The effect of this would be to reenact the common law effect of a seal under the name and take away the plea of no consideration where the promise is in writing, is that true?

MR. WILLISTON: No. The promise must not only be in writing but there must be an additional express statement that the promisor intends to be legally bound.

MR. DIXON: If there was no such statement made, but the promise was an unconditional agreement.

MR. WILLISTON: That would not be binding under this act. There must be, in addition, an express statement that the promisor intends to be legally bound. That is a requirement put in to make it clear that he knows what he is doing, that he intends it to be a legal obligation. I should not be in favor—some people are—but I am not in favor of any proposition that any promise in writing is binding simply because it is in writing. I think that's going too far, but when a man, in addition, in the same writing says that he intends to be legally bound, intends to subject himself to a legal obligation, I don't see why he shouldn't be allowed to do it.

MR. BEERS: May I make a motion, and if it is seconded, I want to speak to it very briefly, and it is to strike out the words from the first line "or promise."

The motion was seconded by Mr. Sims.

MR. BEERS: Mr. Chairman, doesn't the argument of Professor Williston really exalt the form above the substance. Isn't it a real fundamental rule that where a man makes a promise there must be something in the nature of a *quid pro quo* if he is to be held for

it? Of course, we know that the doctrine of consideration can be whittled away until you don't know where you are, but after all isn't the principle fundamental that if a man is going to make a gift he must do it; he must put his hand in his pocket and hand over what he intends to give? Now, by a sort of hocus-pocus, there may be cases where that principle has been gotten away from by giving this peculiar effect to a seal, that in some way or other sticking something on imports a consideration, but isn't the safe rule for society the fact that if you are going to give a gift, you must do it? Now I think all of us have been at meetings where feelings were up and people were enthusiastic, and the example of the widow's mite came to us, and people made all kinds of promises, and some of them, alas, didn't fulfill them, but doesn't this open the door for all kinds of overreaching. It simply says that you could give away your property, you can make all kinds of promises, but you must have one form of hocus-pocus instead of another; instead of licking a seal and putting it on, you must make a sort of argumentative statement, "I not only promise but I want to be bound by my promise." Isn't it a safe thing to leave the law exactly where it is, or, if we do anything, simply say that the seal in the case of a gratuitous promise shan't have any effect? The act, however, may have a useful scope, in that it may remove unnecessary formalities to releases, and if I owe you a doubtful obligation or if I owe you an obligation I can't satisfy, perhaps, and you want to cancel it, you are allowed to give me a release without any form of hocus-pocus, either licking something and putting it on, or making some sort of an indirect statement. I, therefore, move that these words be stricken out so that it may be restricted to releases and not be an invitation for all kinds of frauds and impositions, by getting people to make promises and then giving a form of language that will be binding on them forever after.

Mr. CHILD: May I ask the Commissioner what will he do; will he furnish no method of giving an option, for instance, to sell real estate without passing over a dollar? We now have gotten rid of the seal, for instance, in our state. We had the method of sticking on the seal, and then the consideration was imported and the option is good. Now we have done away with the seal but we

have got no substitute. Will you give us no substitute for the seal? Will you give us no means of doing away with that fiction of passing over the dollar in an option?

MR. BEERS: If you want a provision against options, for heaven's sake have it, and say so, but don't open the door to let in the cat and at the same time let in the wolf.

PRESIDENT MACCHESNEY: In our state we formerly had a good deal of difficulty with charitable subscriptions, and we have met it, I believe, as they have in many other states by a form of subscription card by which one agrees to subscribe in consideration of similar subscriptions by others. It seems to me that that is really a subterfuge. What is intended to be done, of course, is for a man really to subscribe for the charitable purposes, as has been said by Professor Williston, and this provision by which he says he promises to give and intends thereby to be legally bound, would seem to accomplish that in a direct method, which can be understood by the person signing it. There is a difference between a statement in a letter or an informal statement of intention to give, and a legal document which shall clearly express the intention to do so. So far as we are concerned, I think this is a distinct advance over our present method of evidencing the validity of such a transaction.

MR. ROSE: It seems to me that this is the most important act ever introduced into this body. In the simple law of contracts there comes the question of determining whether there is sufficient moral obligation to justify it being carried out. We avoided that in the common law by the use of the seal, but that has been abolished in my state and in a great many other states, and it brings us down simply and absolutely to the sordid question of a monetary consideration. If you give a dollar you may support the most enormous obligation, but no matter how great may be the moral duty to do a thing, no matter how solemnly you promise, unless a paltry dollar is paid, all these moral obligations are of no account. That, Mr. Chairman, seems a disgrace to our law as it is in the State of Arkansas and as it is in almost a majority of the states of the union. We have no method by which the contract may be made binding, or an obligation can be made binding unless you pass over a pitiable little sum of money. Now, a great many of

these obligations are just as meritorious—take the obligation of which my brother Beers speaks. If I promise a man solemnly that I will give him \$10,000, and write it out and say that that is my solemn obligation, upon the face of that he makes all sorts of investments; he changes his condition, and when I do not carry out my obligation I have done to him a very severe wrong; it may be an irreparable wrong, and it seems to me that the quicker we get back to the proposition that there can be some basis of obligation except the sordid monetary one, the better.

Mr. PIATT: I would like to ask the Chairman if this doesn't wipe out the defense of lack of consideration or failure of consideration to a contract?

Mr. WILLISTON: By no means is it so wide as that. It wipes out the defense of lack of consideration in case you have a written promise with this additional statement, that the signer intends to be legally bound. Failure of consideration is another matter. Failure of consideration is properly used in a case where there was an agreement for consideration but the consideration has not been given or has for some reason, perhaps, impossibility, destruction or one thing and another, failed.

Mr. PIATT: The thought I had in mind, Professor—you are familiar with what is known in many of the Western states in the sale of stock on paper as lightning rod paper. Now, in some states they have gone so far as to enact in those states a note given for those purposes, which is practically untransferrable. They tried to so enact it in order to protect against the defense of innocent purchaser, and failure of consideration, and it occurred to me that if that doctrine, if there was any doubt about that, why, we might not get very far with this statute.

Mr. WILLISTON: It wouldn't affect those cases at all. Failure of consideration and fraud are not in the least affected here. Lack of consideration should be sharply distinguished.

Mr. PIATT: Let me give you another illustration as we have it in our state of a case of this sort. A gave his note for \$5,000 to the Kansas City School Board as a gift. The School Board proceeded as a result of that promise to incur some liability. A died before the note matured, and under the law of our state, as it stood, the

note would have been void as against the estate if contested by the heirs for lack of consideration, or no consideration, but our Supreme Court held that the note, while in effect a gift and without consideration, was enforceable because the incurring of an obligation by the School Board on the faith of the note created a consideration. Now this statute will wipe out that doctrine, won't it?

Mr. WILLISTON: It is hoped that this statute will make it unnecessary for the court to say such things which are not true.

Mr. PIATT: Then we have this situation, Professor, if I understand it. It is not an uncommon thing for men to make promissory notes or promises of gifts to employees, or to other people, in very substantial sums, that don't take place and are not actually given but are not consummated until after death, and the heirs attack that kind of conveyance. This wipes that out, doesn't it?

Mr. WILLISTON: If the man intended to be legally bound and the document so stating was signed and delivered, the estate is liable.

Mr. PIATT: And his estate and the heirs suffer by it?

Mr. WILLISTON: When a man gives away money or incurs liability, his estate takes the consequence.

* Mr. EVANS: I think it has been the experience pretty generally of practitioners that whenever the issue of consideration is involved, it is an invitation to perjury. It is the most difficult issue that we have to meet. It is difficult to prove a consideration and it is difficult to prove that there was no consideration, and all things considered, it is one of the most difficult, if not the most difficult to meet. This act, if adopted, puts that question forever to sleep. Where a man promises to pay and then, after having promised to pay, solemnly says that it is his intention to be legally bound, I fail to see any reason under the shining sun why he should not be bound, and I fail to see wherein after doing that, promising that and expressing his intention to be bound, it can be said that there is any sort of hocus-pocus about it.

Mr. FREUND: Mr. Chairman, I am in entire sympathy, of course, with the purpose of the section. I only desire to be informed as to its exact meaning. Mr. Williston said if I make a promise

in the form I suggested a minute ago, "I promise to pay for love and affection," etc., that that was not binding. Suppose I say, "I obligate myself;" I understand that that likewise is not binding. Suppose I say, "I legally obligate myself," would it? But it isn't clear what it does. It seems to me you require also an express statement. Now you ought to be satisfied if a person promises legally, if the word "legally" comes in. Now, that is not in accordance with this form of statement. I am afraid there will be a good deal of litigation to determine the exact meaning of Section 1, unless the draftsman is entirely clear in his own mind that he meant an additional statement, not an additional form of words, but an additional statement, and that seems to me to go pretty far. In other words, no form of language that I can devise will do, unless I make two statements. Am I right in that or not?

MR. WILLISTON: I wish to be entirely frank. I think there is danger of possible misinterpretation on that point. How would it do to strike out the word "also"?

MR. BAILEY: I move you that the word "also" be stricken out.

PRESIDENT MACCHESNEY: Mr. Chairman, I trust the Committee will not agree to that change. If anything, it should be made clearer that it is to be an additional statement, because to legally obligate might mean the ordinary promise. There would be an interpretation by the courts as to what does and what does not legally obligate, and it seems to me that this is perfectly clear. There shall be a promise and there shall be an additional statement of intention to be bound.

MR. WILLISTON: Then I should like to put in the word "additional."

PRESIDENT MACCHESNEY: I will second that motion.

MR. FREUND: I suggest this: "If the writing in addition contains an expression, in any form of language, that the signer intends to be legally bound," then the word "legally" will do it. You need not have an express statement.

MR. WILLISTON: I should like to get the opinion of the Conference on the point that Professor Freund raises, if I may. It seems to me that either the word "also" in the fourth line should be stricken

out, or the word "additional" inserted before the word "express." In order to meet the case that Mr. Freund puts; and to get the opinion of the Conference, I will move, Mr. Chairman, that the word "additional" be inserted in the 4th line before the word "express."

Seconded.

Mr. BEERS: Isn't my motion pending?

Mr. WILLISTON: Then I will withdraw my motion at the present time.

CHAIRMAN: Professor Williston withdraws his motion, and we will now take up the amendment proposed by Commissioner Beers to take out the words "or promise" in line 1 and in line 2.

Mr. GRAHAM: Before the question is put, I would like to ask Professor Williston a question. In case this law is generally adopted, the form of petition for subscriptions, of course, would change. The form referred to by General MacChesney, binding each promisor because somebody else was bound, would be abandoned, it wouldn't be necessary, and we would have written or printed statements at the head of the subscription paper with this language either prominently written in or hidden in it somewhere. Suppose the person who circulates the petition misrepresents the contents of the statement to a would-be subscriber, and on the strength of that misrepresentation the party signs the petition. Would he be bound anyhow?

Mr. WILLISTON: No, this says shall not be invalid for lack of consideration, but it does not say shall be valid in spite of fraud and misrepresentation.

Mr. GRAHAM: There would be a great deal of that sort of thing.

Mr. IMLAY: I should like to ask Professor Williston, first, if it is his opinion that this law should be binding upon a court of equity as well as upon a court of law?

Mr. WILLISTON: It will be binding to this extent, that the court of equity could not say the promise was invalid but the court might refuse specific performance of a contract in favor of such a person. That relief would be discretionary with the court.

Mr. IMLAY: In the use of the word "enforceable" or the use of the word "unenforceable"—"shall be invalid or unenforceable for

lack of consideration"—might that not be construed as preventing a court of equity from denying specific performance for lack of consideration?

Mr. WILLISTON: I should not think so. It is well recognized that a court of equity has discretionary power in regard to refusing specific performance, and the mere fact that you say a contract is enforceable does not carry with it the implication that specific performance shall be granted of it.

Mr. IMLAY: It seems to me, Mr. Chairman, that if the Conference accepts that interpretation, if the courts place that interpretation upon this section, that something of what Mr. Beers has referred to has been eliminated, and yet it seems to me that the law in presuming that interpretation has not eliminated much that Mr. Beers found objectionable in it. I take it that the doctrine of consideration, while originally a matter of procedure, perhaps, historically a matter of procedure, has always been regarded by the courts as a part of the substantive law, and that the insistence upon the presence of a consideration in a contract is a matter of moment. I can see very clearly the force of what the gentleman from Connecticut refers to when he speaks about the possibility of overreaching in the case of a person who signs an agreement without consideration, particularly as between relatives, and particularly as between husband and wife, where the wife is not protected by some conception in the law validating the contracts of the married woman. The question we are confronted with is the question as to whether we will vote now in favor of retaining the law of consideration or doing away with it. If I understand correctly the modern legislative development in those states like Arkansas, that Mr. Rose refers to, and other states which have reduced sealed instruments practically to the same level as unsealed instruments, it is with the idea that there is something vital and something important in the law of consideration, and something from the standpoint of law that is practical and should not be disregarded for the substitution of a form that has outgrown the seal. I can see the importance of getting away from the mere formality of a seal, getting away from the litigation that Professor Williston speaks of, and so well illustrated in his

case book on litigation concerning what is and what is not a seal, and yet it seems to me that this Conference should not at this time vote to do away with the law of consideration. It seems to me that we would find ourselves, under those circumstances, in the position of having countless obligations presented for enforcement in courts of law, if not in courts of equity, in which there is, in fact, I think Mr. Beers is entirely correct upon that, a mere substitution of one formality for another; and for one, I do not see the wisdom of sweeping away the law of consideration, even though I feel the same force that Mr. Rose does in the moral obligation of the promise. I believe that we are not prepared as a Conference to go on record and say that the courts should do away with the law of consideration, even though that is confined in courts of law and not in courts of equity, and substitute a form of words for a seal, when the tendency of the legislation which has done away with the seal has been rather to fortify than to weaken the law of consideration in contracts.

CHAIRMAN: The question before the Conference is to strike out the words "or promise" in line 1 and "or promising" in line 2 of Section 1, under the motion of Mr. Beers.

Mr. PIATT: I hope that motion won't prevail. Either we should wipe out the proposition of consideration, or we should leave it as it is. We should not make two laws, make valid a release for want of consideration and at the same time and by the same stroke of pen make invalid a contract for want of consideration, and I hope Mr. Beers' motion will not prevail and reduce this simply to a release.

Mr. MOSS: It seems to me that the freedom of contract should be maintained as far as possible, and I can't see any reason why if a man wishes to bind himself legally, irrespective of consideration, he should not be entitled to do so, and I think the act should pass substantially as drawn, and that it will not interfere with the law of consideration in the slightest degree. Really all the beneficial operations of the law with regard to consideration will be left, but we will also have a man free to bind himself if he definitely intends legally to bind himself, irrespective of the consideration.

Mr. BRONSON: Merely a question to Prof. Williston. Supposing

A makes a contract with B in writing for a consideration of \$500, to sell to wit, five mules—(interrupted).

Mr. WILLISTON: They are equivalent to \$500.

Mr. BRONSON: And in the contract there is an express additional statement that B assigns to C, but the mules die and are never delivered. Does A's obligation to C stand?

Mr. WILLISTON: No. That is failure of consideration. When you contract to pay something for mules and the mules die, this act would not make you liable.

Mr. BRONSON: Even though an additional statement was there that you intended to be bound by it?

Mr. WILLISTON: He intended to be legally bound to pay some money for mules, not for nothing.

Mr. BEERS: In reply, particularly to Commissioner Piatt, the object of this motion is to test the sense of this body as to whether we want to reframe the law by taking out those sordid elements that are the foundation of law itself, because law has to do with the rights of one man against the other, or whether we want to stick to the old landmarks. Now we have no objection, those of us who want those words out, we have no objection to a proper law of options; we have no objection to covering a case of unborn children, about which my friend, Mr. Child, is disturbed; we have no objection to a proper law covering the question of subscriptions, and probably there ought to be one, but we do want to test the sense of this body on this broad principle. Neither by passing this motion do we take it that your body is committing itself to this rather weird invention of our friends, by which one form of language takes the place of a seal, but we do want the question tested of whether we are going to throw into the junk heap this principle of consideration, which is in every state and which existed long before any of us were born.

CHAIRMAN: The question before the Conference is on the amendments proposed by Commissioner Beers, striking out the words "or promise" in line 1 and "or promising" in line 2. All those in favor of that amendment will signify by saying "Aye." Contrary minded "Nay." The "Nays" appear to have it, the "Nays" have it, and it is so ordered.

Mr. CHILD: Mr. Chairman, as a matter of taste I would suggest that I should feel better about it if this was passed, and I think it will be, dropping out that "No." "No written release," don't use the adjective, but rather "shall not be invalid." I make that as a suggestion to the Committee.

Mr. WILLISTON: I am willing to accept that, making it read, "A written release or promise shall not be invalid."

Mr. CHILD: While I am on my feet, we are speaking of a written promise or a written obligation. Now I should think you would call it "Written Obligation" instead of "Written Obligations"—drop off the "s" in "Obligations" in Section 3.

Mr. WILLISTON: Well, I am not so sure about that. You say Sales Act, not Sale Act.

Mr. CHILD: This is a written obligation; it is one obligation you are speaking about in Section 1.

Mr. WILLISTON: No, I am speaking about every obligation anybody makes this way, and that would make many hundred obligations.

Mr. CHILD: You are speaking of it in the singular, of each obligation. Now "Obligation Act" would sound better. I consulted my mentor, Mr. Rose, on it, and he agrees with me.

Mr. WILLISTON: It depends, it seems to me, on whether you are using obligation as an abstract noun or whether you are using obligation as referring to each contract that is made.

PRESIDENT MACCHESNEY: Professor, are you going to renew your motion now that you withdrew before?

Mr. WILLISTON: There being no motion before the house, I now move that Section 1 be amended in line 4 by inserting the word "additional" before "express."

Seconded.

Mr. FREUND: I want to be entirely clear as to the effect of this. As I understand it, if this is adopted it will require two statements to make a legally enforceable promise without consideration, and not one promise, in however clear a form, whereby a man declares himself legally bound. I just want to understand that.

Mr. WILLISTON: It is my purpose by this motion to raise that question; and to make it a little clearer: I understand the Commissioner from Illinois, Mr. MacChesney, has a very clear view as to the propriety of doing this. My own view is not so clear, and I don't wish in presenting this motion to have the Conference understand that I am strongly advocating it, for I do see a certain propriety in making a man bound if he says in one promise, "I intend legally to bind myself to pay \$500," but I wish to present the question.

PRESIDENT MACCHESNEY: Mr. Chairman, just a word on that. It seems to me by making it clear that there shall be two statements, we to some extent meet the real question which has been raised by the Commissioner from the District of Columbia and others, that this shall not be done by inadvertence. We all recognize that there are some injustices by people subscribing under certain conditions, without consideration, to enterprises. On the other hand, it is also true that many institutions have been seriously hampered and unfairly treated because men of substantial means have given promises, upon the basis of which boards have gone ahead and then have had to renege on their legal and moral obligations. That has been met by language indirectly; this meets it fairly and directly. It seems to me that the requirement that a man does intend to be legally bound should not be merely a legal obligation, but there should be an additional statement showing that he understands that effect and he so intends it, and, therefore, the addition of this word makes it perfectly clear that there should be such additional statement.

Mr. FREUND: A vote on this amendment creates a little embarrassment. I certainly prefer this to the present form, but I prefer a clear expression that a person may bind himself by one distinctly legal promise. I mean to say, I would rather vote for your motion than for the one that stands here, but I would rather vote for another amendment; but if I vote against this I may have to swallow this.

Mr. WILLISTON: I may say that if this amendment is lost I will try to make it clear in the sense that you desire.

Mr. MOSS: Is the word "also" in or out of the act now?

Mr. WILLISTON: The word "also" is in and the word "additional" is put in by the motion that we are now taking.

Mr. Moss: Isn't it tautology to have both in?

Mr. WILLISTON: It is tautological, to some extent, but it makes the meaning perfectly clear.

Mr. CHILD: Wouldn't it be much less bungling if you left "also" out? Would you leave it in?

Mr. WILLISTON: Yes, I will leave it in. It seems to me there is a chance for doubt here.

PRESIDENT MACCHESNEY: My distinguished colleague not only suggests that it be left in but that it be underscored.

Mr. HINKLEY: It seems to me that it would probably facilitate progress if Professor Williston would, while we have this present amendment under consideration, formulate an alternative form of expression which might meet the situation better.

Mr. WILLISTON: The problem is whether the writing must, as General MacChesney would wish, contain two separate statements—if that is the desire of the Conference it should be clearly expressed, even at the expense of tautology. On the other hand, if what Professor Freund would prefer is to be enough, that one statement if that statement clearly puts the word legally in shall be sufficient, then not only "additional" does not go in but "also" goes out.

Mr. ROWLAND: May I just say I am well pleased with this as it now stands. It seems to me that this discussion which we have now gotten into is rather technical. It seems to me that this is a perfectly fair statement of the law to all parties concerned. I see no reason why a man who signs such an instrument under such circumstances shouldn't be legally bound. I would even be willing to go further on this matter of consideration, but I think this is a very conservative expression. I am heartily in favor of leaving it just as it is and not quibble over these additional words.

CHAIRMAN: The question is on the amendment as offered by Professor Williston, that the word "additional" be inserted before the word "express" in line 4. All those in favor of the amendment

will signify by saying "Aye." Contrary minded "No." The "Aye's" appear to have it; the "Aye's" have it; it is so ordered.

Mr. WILLISTON: I move then the tentative adoption of Section 1 as amended.

Mr. CROOK: Section 2 of our By-Laws states that the object of this organization is to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practical. I am opposed to the adoption of this whole act in any form. I don't believe it is within our province technically. I think we have gone to the extreme limit. We are not dealing with a subject that is now in confusion among the laws of the states. On the contrary, we are going to a question of the substitution of law, as has been well stated by the gentleman from Connecticut. It is very radical. We are getting into deep water; we are inviting confusion; we are going into the states of our country and asking them to adopt a law which I think will weaken the Conference and its influence in those states by reason of its very radical nature and the fact that it is not calculated to relieve confusion. It is going further, I believe, than we have gone at any time before. If the act is adopted, I think the amendments suggested are in order.

Mr. WILLISTON: I should like to say one word with regard to the propriety of the act being within our province. It is to my mind something to render uniform a matter about which the law is distinctly in conflict. As a matter of fact, the law of Wyoming says that any written promise is binding without consideration. There are several states that say that written promises are presumed to have consideration whether they are sealed or not. Then there are, of course, the states which still retain the seal as a method of making a written promise binding. Some considerable number of states still have that rule, so that the law as to when a written promise is binding without consideration is a matter on which the present confusion of law and conflict is very great, and it is a matter, it seems to me, on which it is important to have the law of the several states uniform, for contracts made in one state are, of course, frequently of vital importance in another.

Mr. RYALL: Mr. Chairman, I would like to ask the Chairman of the Committee and the Committee of the Whole that has this

matter in charge, because I feel they perhaps are better fitted than anybody here to answer this question specifically, would the Committee, if they deemed it possible, advise the abolition of the entire common law doctrine of consideration, or not?

Mr. WILLISTON: Not for a minute.

Mr. RYALL: I asked that question, and I wanted to get a specific answer, for this reason: It seems to me that as this matter now stands we have practically done that, if we say that this contract is going to be binding, notwithstanding there is no consideration. In other words, the doctrine of necessity of consideration has gone and it is simply now a matter of whether the promisor says that he understands that there is no consideration in the sense of the common law definition and that he is going to be bound anyway. In other words, it has resolved itself now into a matter of—instead of a matter of what the law has looked upon and called consideration, it seems to me as the thing now stands it practically abolishes the doctrine of consideration.

Mr. WILLISTON: I think that is not true at all. In Massachusetts we have the law of seals in force. You lick a wafer and put it on a promise and that promise is binding. I suppose it is no exaggeration to say that in Massachusetts, of a thousand contracts 999 of them rest for their validity on the doctrine of consideration, and perhaps one in 1000 rests for its validity on the question of a seal, and if this statute is adopted, I have no doubt that the proportion will be about the same in any state which enacts it. The ordinary bargains of human life are made for a consideration and they will continue to be so if this statute is passed or not. The only effect of this statute will be that if there is no consideration for a promise and the parties, nevertheless, intend to be legally bound, they can be; but that case is, of course, always the exception. This enables a man to bind himself by promising to pay \$10,000 gratuitously, if he wants to, but that is not the way parties ordinarily make contracts.

Mr. AILSHIE: I notice in your reply to the gentleman from North Dakota you stated that his hypothetical contract would not be enforceable. Now, under this if the real consideration for signing the contract, say for payment of \$500, were the future

delivery of some personal property and that should not be delivered, under this act would there be any defense to the contract?

Mr. WILISTON: There would if the property was not delivered. It is the same question that has been raised by Mr. Piatt and also by the gentleman from North Dakota. Failure of consideration is not the same as lack of consideration. The common law cases in England, where seals were in force, are full with an abundance of such cases as you are suggesting. It was just as good a defense to a sealed contract as to an unsealed contract that you did not get what you bargained for.

Mr. AILSHIE: The one thought I had in mind is that you are now changing the rule.

Mr. WILLISTON: I am not changing that rule. I am making the law, if this act is enacted, substantially the same as it was when seals were in force, so far as the doctrine of consideration is concerned, except that in lieu of the formality of a seal, the formality of this statement is substituted.

CHAIRMAN: The question before the house is the motion made by Commissioner Williston, which has been duly seconded, that Section 1 of the tentative act be adopted.

Prof. Williston's motion to adopt Section 1 was put and carried.

Mr. WILLISTON: The remaining sections are the usual formal sections, and I will read them consecutively if I may.

Professor Williston then read Sections 2, 3, 4 and 5, and moved their adoption.

Mr. FREUND: Just one point in connection with Section 4. Professor Williston has referred to an act, I believe, of Wyoming, stating that all written contracts shall be valid. That is not inconsistent with this, is it? In other words, in a state of this kind this act would not have to be passed and would be purposeless.

Mr. WILLISTON: As a matter of fact, the statute of Wyoming pretty clearly says that, but a judge of the Wyoming court told me last year that he was very doubtful if the courts would really go the full length.

The motion to adopt Sections 2, 3, 4 and 5 as read was then put and carried.

Mr. PIATT: Before that question is put, may I ask Professor Williston a question? Section 4 says, "All Acts or parts of Acts inconsistent with this Act are hereby repealed." Does that limit it to acts alone, or does that include what may be common law in some states?

Mr. WILLISTON: Of course, when you pass a statute it knocks out inconsistent common law without any special Section 4. It will do that *ipso facto*. This is the usual form that's adopted in all our acts.

The Committee rose, and reported to the Conference that it had considered the Uniform Written Obligations Act and recommended its adoption.

Mr. DINKELSPIEL: I move the following resolution:

Resolved, By the National Conference of Commissioners on Uniform State Laws at its 35th Annual Conference, held at Detroit, Mich., August 25th to 31st, 1925, that the Act to Validate Certain Written Transactions without Consideration and to make Uniform the Law Relating thereto, known as the Uniform Written Obligations Act, be and the same is hereby approved and adopted, and that the act is now recommended to the legislatures of the various states, the Territory of Alaska, the Territory of Hawaii, the District of Columbia and the insular possessions of the United States, for enactment.

Mr. BEERS: I do not wish to re-debate this matter, but I do wish, however, to remind the Commissioners that what happened in the Committee of the Whole was no test of strength; there was no division asked for and no roll call by states, and I do express the hope that we will not, instead of trying to unify the law, pass a new law with novel principles that will add all kinds of fraud and imposition and make it extremely hard for any of us to favor it at all.

On a roll call by states the vote was as follows:

Yes	Illinois
Arkansas	Indiana
California	Iowa
Colorado	Kansas

<i>Yes</i>	<i>No</i>
Kentucky	Alabama
Maryland	Connecticut
Massachusetts	Delaware
Minnesota	District of Columbia
Mississippi	Florida
Missouri	Georgia
Ohio	Idaho
Pennsylvania	Maine
Rhode Island	Michigan
South Dakota	Oklahoma
Tennessee	Texas
Utah	Virginia
Washington	Total: 12
West Virginia	
Wisconsin	
Wyoming	Divided
Total: 23	Louisiana

PRESIDENT MACCHESNEY: The act is declared adopted and will be recommended in accordance with the vote, it having received the requisite number of votes under the constitution.

MR. PIATT: Now, Mr. Chairman, I desire to make a motion in connection with this act—perhaps it is not exactly applicable at this moment, but it is this: I move you sir, that the Executive Committee cause to be carefully edited and condensed the debate and pertinent questions asked and explained here in connection with this act, and printed with it, for distribution to the various states. I do that under the theory that has been advocated from time to time of why the lack of interest in these Acts. This act is a radical, in some respects, departure from what many people think the law is or think the law ought to be, but it has been satisfactorily explained to the Committee and it has now got to be satisfactorily explained to the legislatures over the country. I hope we can get that through.

PRESIDENT MACCHESNEY: Would the gentleman have any objection if that would take the form of a recommendation to the Executive Committee that that be done?

Mr. PIATT: No.

PRESIDENT MACCHESNEY: It is moved by the Commissioner from Missouri that it be recommended to the Executive Committee that a proper digest of this debate be prepared under the auspices of the Chairman of the Section and the Chairman of the Committee for transmittal in connection with the act when sent out. As many as are in favor of that say "Aye." Opposed "No." The motion is carried.

The Conference then went into a Committee of the Whole to consider the Uniform Interparty Agreement Act, Mr. Dinkelspiel in the chair.

Mr. Williston then read Section 1, and moved its adoption.

Mr. FREUND: May I ask, Mr. Williston, why the provision regarding contract was placed separate at the end?

Mr. WILLISTON: Because it was discussed at the last meeting of the Conference, and it was finally concluded that the words appropriate to making a release or sale were not satisfactorily used with regard to contract.

The motion to adopt Section 1 was then put and carried.

Sections 2, 3, 4, 5, 6, 7, and 8, were then approved without discussion, after being read.

The Committee then rose, and reported to the Conference that it recommended the approval of the Uniform Interparty Agreement Act.

Mr. HINKLEY: I move the following resolution:

Resolved, By the National Conference of Commissioners on Uniform State Laws, at its 35th Annual Conference, held at Detroit, Mich., August 25th to 31st, 1925, that the Act Relating to Transactions Between a Person Acting on his own Behalf and the same person Acting Jointly with Others, and to make uniform the law Relating thereto, also known as the Uniform Interparty Agreement Act, be and the same hereby is approved and adopted, and that the act is now recommended to the legislatures of the various states, the Territory of Alaska, the Territory of Hawaii, the District of Columbia and the insular possessions of the United States, for enactment.

The roll call by states resulted in the following vote: In the affirmative the following states; Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Utah, Texas, Virginia, Washington, Wisconsin, Wyoming. Total: 35.

There were no negative votes.

PRESIDENT MACCHESNEY: The act, having been passed by a majority of the states voting upon the question and by an affirmative vote of at least 20 states, as provided by the constitution, is hereby adopted.

The Conference then went into a Committee of the Whole for the further consideration of the Uniform Real Property Mortgage Act, Mr. Hardin in the chair.

Sections 40 to 46, inclusive, were read and approved without discussion.

New Section 1, containing the definitions was then read, and definitions of "mortgage" and "trust mortgage" included. There was no objection to the section.

The Committee then reported verbal changes with regard to Sections 2 and 3. A motion by Mr. McDougal to strike out "not occupied" in Section 3 and insert in place thereof "be abandoned by the mortgagor," was carried. Sections 2 and 3 were then approved.

Mr. Bridgman then read certain proposed amendments to Section 23 regarding receiverships, which were approved.

Mr. Bridgman then read a proposed amendment to Section 11, inserting the words "actual or constructive" before "notice," and this was approved.

Section 18 as amended was then presented and approved.

Section 5, as amended with respect to future advances, was then presented. A motion to limit the maximum amount of the mortgage was lost. Section 5 as amended was approved.

Section 6, amended to include the words "subject, however, to the effect of the recording acts," was approved.

Section 4 with verbal changes was approved.

The Committee rose, and recommended to the Conference that the Uniform Mortgage Act be approved.

A motion to waive the provision of the constitution requiring an act to be placed upon the desks of commissioners for at least one session before being voted on for final approval, was lost by a vote of 19 to 18, 20 votes being necessary to effect such a waiver. A recount showed a vote of 19 to 19. The chair then ruled that a mimeographed copy of each of the amended sections would comply with the constitutional rule, and the Conference sustained this ruling.

The Conference adjourned until 2 p. m.

Eighth Session

Friday, August 28th, 1925, 2 P. M.

President MacChesney in the chair.

The Conference resolved itself into a Committee of the Whole to consider the Uniform Acknowledgment Act, Mr. Sims in the chair.

It was explained that this act was intended to take the place of the two acknowledgment acts adopted by the Conference many years before.

Section 1 was approved, with the suggestion that the words "Supreme Court" be bracketed or the words "highest appellate court" substituted therefor.

After a discussion of the advisability of allowing a judge to take acknowledgments, subdivision 1 of Section 2 was stricken out.

Mr. RILEY: It seems to me in this day that a justice of the peace ought not be permitted to take acknowledgments. There is no way in which the door is open more than having simply a person reporting to be a justice of the peace sign a paper without anything, such as a seal, to indicate his office. In former times when notary publics were not so numerous as they now are,

there might be some public necessity of permitting an acknowledgment before a justice of the peace, but in every town of any size there is a notary public, and it seems to me it would be well to keep out justices of the peace.

Mr. BRUELL: Where some of the notary publics are forty or fifty miles from the place of execution of an instrument, but justices of the peace are frequent, he would realize the need of the justice of the peace being included. I agree with you that in towns and cities it would be wholly unnecessary, but it is a great convenience in many of the country places, but in order to satisfy the ordinary individual, it becomes necessary then for the clerk to attach a certificate to the effect that the individual was a justice of the peace.

Mr. SCHOETZ: Why not include also the state court commissioner, instead of United States court commissioner? Is there any reason for leaving out the state court commissioners?

Mr. FREUND: I should like to ask for information. Is it the purpose of this act primarily to create uniformity with reference to acknowledgments taken outside of the state for use in the state, or is it also a primary purpose of this act to make uniform the forms and authorities for acknowledgment in any particular state for use in that state, and is there any need for uniformity in the latter respect? I don't know whether I make myself clear. For instance, in Illinois you may have any officials that they deem proper and that they have always been used to. If in Illinois it has been customary to have acknowledgments taken by judges and no inconvenience has been experienced, I think it would be pretty hard to go to the Legislature of Illinois and attempt any change in that respect. If, however, an act is presented that is merely a matter of interstate comity, you have a very different proposition. May I be informed what the purpose was in drafting this act.

Mr. HUNTER: You will notice that Section 1 refers to acknowledgments taken at any place within the state; Section 2 to acknowledgments within a district, county or city within that state, and Section 3 within the United States. I assume that our idea was that that would be in any other state in the United States.

Section 4 then refers to acknowledgments outside of the United States.

MR. FREUND: What is the purpose of having uniformity throughout the states as to purely local acknowledgments? I simply ask whether you will not encounter enormous difficulty in presenting a measure which attempts to change an established practise in a particular state where uniformity does not seem to be essential. Suppose I should go to the legislature of Illinois and ask them to change the law and they would ask, "Why? Because it is to be the same in other states?" Why I would be embarrassed. I would not know how to answer that question.

PRESIDENT MACCHESNEY: There were two acts before, one for acknowledgments within the state and one a foreign acknowledgments act. It is a very considerable convenience to counsel to be able to determine whether an acknowledgment is a proper acknowledgment or not, and for that purpose it seems to me the provisions should be alike. These instruments are prepared elsewhere oftentimes by counsel to be sent into a state, and are frequently sent from one state into another to counsel who pass upon them. It is the sort of thing which it ought not be necessary in every instance to send on to local counsel or have a local counsel's opinion upon, and it would facilitate business, it seems to me, to have it uniform within the state as well as out of the state, and so far as possible, alike for both purposes.

MR. GRAHAM: By way of suggestion only, I can't see any good reason for authorizing the Mayor of a City to take an acknowledgment. As Mayor he has no seal of office.

MR. HUNTER then read Section 3, and suggestions were received for verbal changes.

Sections 5 and 6 were approved without discussion of matters of principle.

MR. HUNTER then read Section 7.

MR. BEERS: There are two suggestions that I want to make. Perhaps they will appeal to the Committee. They needn't be made the subject matter of a motion. The first one is this: A seal of an official is very apt to come off, so that an instrument may

be properly acknowledged and yet later on it appears that it is not. Furthermore, the recording laws are sometimes construed as not requiring the writing down of the seal. I have in mind a case from Mr. Hunter's own state where upon a record no seal appeared, no note of a seal, but the official had certified that "I have attached my seal." They invariably do that. They said the seal must have been on the original and was simply left off the record either through inadvertence of the recording clerk or because the law did not contemplate making pictures of seals, and they saved the instrument. So there is a great deal of merit, it seems, in a recital of this kind to add at the end, "I have hereunto set my hand and seal of office." Then if a seal should come off it is presumed to have been there but left off the record because no artist had been provided to draw pictures of them. The second point is this: We will be met in the various legislatures with this sort of claim, "that the language we are now using is just as good as that which this act provides," and "that we have used it for generations, and many forms are printed and many form books have been printed," and there will be a great indisposition to invalidate a whole lot of ancient forms. In my own state they use this form, they say, "Before me personally appeared John Jones, who acknowledged this deed to be his free act and deed." That, of course, isn't any better than this. It isn't as good, because there is no recital as to fact of knowledge, and yet they would be extremely slow about making the change. I have blank deeds printed in 1834 that my grandfather used in his day with that form; and you would have that same situation. Now, the question is, will we not have that same trouble everywhere, that they won't want to give up the ancient way? Is it not wiser to make this permissive and not mandatory?

Mr. AILSHIE: I quite agree with what Mr. Beers has said with reference to having an attestation to this certificate. I think that ought to be. In our state, and so far as I know in most of the states, they affix a seal that is as lasting as the paper on which it is written—it makes an impression through the paper. With reference to the other matter, I think it highly proper that you have a provision there so that when blanks are printed they can be

printed in the alternative, that if the person making the acknowledgment is not known to the officer, you may insert there that he was proven upon the oath of so-and-so.

A motion to substitute "may" for "must" in Section 7 was lost.

Mr. BRUELL: There is one other form to go in Section 7 that was omitted, and that is a form for co-partnerships. This would go in as 5a. (Reading). The question arises whether or not, and it has been discussed quite freely, whether or not one member of a co-partnership should execute and acknowledge an instrument, or whether the acknowledgment should be required by all, but I take it, that is a matter of substantive law, perhaps, rather than forms here, and probably this form would be sufficient under all the circumstances.

Mr. ROWLAND: As a suggestion—I don't know how it is in other states but in our state a partnership can't hold title to real estate. Title to real estate is vested in the individual members of a partnership. They have to act as individuals and not as a partnership. It seems to me that this would be more confusing than helpful. I have never had a deed or a mortgage executed by a partnership yet.

Mr. HUNTER: This could not undertake, in the guise of an acknowledgment, to give a partnership power which it had not without it, but here is one illustration of what a partner might do and could do under the law: If a debt were paid that was secured by mortgage, he having authority to receive money and cancel, should have authority to acknowledge whatever paper was necessary in order to complete the transaction, and it is only intended to apply to that character of things, which the partner can perform, and not to expand his powers as a partner.

On motion of Mr. Hardin it was voted that the certificate of acknowledgment should omit any statement by the officer as to the authority of the party executing the deed to execute it.

Suggested that the officer should be required to know the person executing the instrument "personally."

Mr. PIATT: On this acknowledgment of a corporation, No. 2, this requires as I read it that the notary public who never has

seen—I am now talking about the practical side of it—who never has seen this President or managing officer of a corporation before in his life and is introduced to him, to know that he is the officer of the corporation because he says so, or the man introducing him says so, and that he has authority to execute this deed or this mortgage to convey away the property of the corporation that he probably has not. Now it seems to me that, in the interest of protecting corporations against the acknowledgments of officers who misconstrue their authority, there should be in an acknowledgment of this kind a provision that the authority is given by the Board of Directors, and a form of statement made that makes the officer who makes it liable if he falsifies.

Sub-sections 6 and 7 of Section 7 were read and discussed as to verbal changes.

Under the discussion of Section 8, the question of the power of the acknowledging officer after the taking of the acknowledgment was presented. It was suggested that the effect of correction of the certificate should be to make the instrument as if originally validly acknowledged, and not to make it entitled to be recorded.

Sections 9 and 10 were approved with discussion.

Mr. HARDIN: I would like to move to strike out Section 8 and substitute this for Section 8 with its three sub-sections: "If any certificate shall be defective in form the officer taking such acknowledgment may correct the certificate of acknowledgment and the instrument will then be entitled to be recorded, or if it is already recorded, it may be re-recorded." It appeals to me that this elaborate machinery for correcting an acknowledgment is totally ineffective because there is no retroactive effect. How much simpler it would be to have the officer correct the defects and re-record the instrument. That's the present practise and it works satisfactorily. There is only one thing it doesn't cover and that is where an officer, who takes an acknowledgment or certified it, may be dead. Every other case is covered by re-acknowledgment.

Mr. BRUELL: The Committee would be pleased to receive the suggestion and try to reconcile it with the others.

Mr. WASHINGTON: In this connection I desire to say this: I didn't have an opportunity to go to Chicago nor had I an

opportunity to consider this proposed act until I arrived here, and although I am a member of the Committee, I am not at all sure but that the better way to handle this situation is to amend the two acts that were adopted by this Conference several years ago, one relating to Foreign Acknowledgments outside of the United States, and the other relating to domestic acknowledgments. Those acts have both been enacted by my state. One of them has been ferociously attacked on constitutional grounds, and sustained by the Supreme Court. My state has just adjusted itself to both of those acts, and it would create considerable confusion at home to go there with a totally new act, combining foreign and domestic acknowledgments. The point I am aiming at is I wish the Conference to consider whether it is not better to amend the acts we have already promulgated, which have already been adopted, than to approach the situation with a totally new act.

The Committee rose, reported progress and asked that the Committee on a Uniform Acknowledgment Act be continued for a further study of the subject. This request was granted.

Mr. Hart then presented a supplementary report on the Appointment of and Attendance by Commissioners (see pp. — for this report). The report was received.

PRESIDENT MACCHESNEY: I recognize Mr. Barton, of Maryland, for a brief report of the Real Property Acts Committee, which we passed upon request of the Committee.

MR. BARTON: Mr. President, this is a subsection, as I understand it, of the Committee on Uniform Property Acts, and the title of my special committee is "Uniform Real Property Acts."

When the subject was first assigned to me I considered it, as I am sure the members of the Conference would, as a fairly broad order, if the purpose was to attempt to harmonize or bring into uniformity all the real estate laws of the different states, but I gather what is really the object is to try to pick out some of the provisions of real estate law that might be unified, harmonized, and prepare a series of separate acts which would cover them. There was turned over to this Committee, when it was appointed or when I was named Chairman, a compilation of work, or the result of work, of the American Title Association, and an examination of

the reports made by that Association and by Mr. White, who was in charge of this work, show that they recommended fifteen subjects for amendments of the law of the different states. It was suggested that we might utilize their work, as it was a result of a very extensive investigation, taking a great deal of time and involving, no doubt, the expenditure of a good deal of money. It seemed the sensible thing to do to get the benefit of what they had done. Our Committee, have therefore, determined that we will use as a basis what they call their fifteen proposals. Now we haven't had time yet to decide which we can centre or concentrate our attention on first, but I for one have noticed that there seems to be a good deal of overlapping. For example, one of the fifteen proposals had reference to the limitations on the life of a mortgage. Well now, if you pass this Mortgage Act which has just been the subject of debate, that contains, as I recall, a provision that a mortgage shall automatically expire after a certain time, that would make it unnecessary for us to deal with that; and then another proposal, and I think perhaps the most important one in the series of fifteen of the American Title Association, is that a married man or married woman shall have power to convey his or her property without the consent of the other spouse and have the same effect as if he or she were not married. That, of course, opens a broad field that really trenches not primarily on real estate law but on the question of marital rights. Whether that is properly within the scope of this Committee is a debatable question, and I apprehend it would be like shaking a red rag before a bull to go before—certainly to go before the legislature at the present time in Maryland with a proposition that all dower rights or rights of curtesy be abolished, that a husband or wife convey property in the same way that they would convey personal property or give away or transfer their personal property, without requiring the uniting of the wife or the husband,—it would cause a storm. It may be wise, I am not prepared to express my own views. I suppose it largely depends on whether the wife has more money than you have whether you would think it was a good thing to do it or not. That again is a question we have to determine whether that comes within the purview of this Committee's work.

Another one of the proposals I find has reference to the disposition that should be made of property rights in the event of a divorce decree, but I understand that there is a committee attempting to draft a uniform divorce act. I have no doubt that if such a bill is drafted, it will contain provision for what the decree shall contain for the disposition by the court of the property rights of the parties that are separated by divorce.

Still another important proposal among these fifteen is that there should be uniform limitation on the period of the right to attack the holding of property; in other words, adverse possession. Whether or not we want to go into that is a question I think that requires very serious consideration; whether if Maine regards twenty years of adverse possession as the proper period before the period of repose and another state thinks ten years sufficient, whether it is desirable to get Maryland to adopt the views of Iowa, or vice versa, and that again might bring up the question of whether the whole subject of limitations ought not to be harmonized. Personally, I think there is a great deal of room for a consideration of an effort to bring the statutes of limitations of the states into harmony. I find it very incongruous to know that in Maryland you are safe after three years, but in Pennsylvania, if you happen to live there, you are exposed to the same suit for five years. I see no reason why the states should not have the same period of limitations, and it seems to me we might very well direct our attention in trying to harmonize periods of limitations, not only on the life of an obligation, of the right to maintain suit, but upon real estate property rights too.

I beg your pardon for calling attention to these things, but I did wish, Mr. President, to some extent rather, to explain away the apparent inactivity of this Committee. The subject is one which seemed rather bewildering at first. No doubt if more time had been directed to it by your Chairman much more could have been accomplished, but I did wish to premise a motion, which I propose to make, by an explanation for the necessity of it, and suggest that this Committee be continued with the hope that within the next twelve months we may be able to reach more definite conclusions than at present.

PRESIDENT MACCHESNEY: The Chairman of the Committee on Real Property Acts reports progress and requests that the matter be referred to them for further consideration and report at the next Annual Conference.

The motion was put and carried.

The Conference went into a Committee of the Whole to consider further the Uniform Public Utilities Act, Mr. Shoemaker in the chair.

Sections 21 to 28, inclusive were read and slight verbal changes suggested.

Section 29 was read.

Mr. FREUND: As I read Section 29, it does require a certificate of necessity and convenience for any duplication by a new enterprise. That is something new, and I suppose you realize that the ordinary rule in this country nowadays—I don't say it is a good rule, but I doubt very much that they have to have a certificate of convenience and necessity for any undertaking of a public utility character, but this does not accomplish this. This requires it only for duplication.

Mr. SCHOETZ: May I suggest in connection with Section 29 that interurban buses be excepted from that provision for this reason, that it would be very simple for a utility that is now serving between cities to put on another bus, and it doesn't keep out any accommodation whatever. I think interurban buses are in a different class than those utilities wherein a public utility corporation has invested large sums of money. With reference to interurban buses, they are used in the public highway, and all they have is a bus. I think there is a valid reason in the states for differentiating between interurban buses and other utilities.

Sections 30, 31, and 32 were then read.

Mr. SAWYER: The gentleman from Wisconsin suggested to me the other evening that possibly—and this would include bus lines, it was his impression that bus lines should not be included under the terminable permit system, and that thought I passed on to some members of the Committee and we want to take that and will take that matter under consideration and give it very careful thought.

Mr. FREUND: Mr. Chairman, I think the phrase "terminable permit" is a very unfortunate one. It is quite misleading. It leads people to think really that something less has been given instead of something more. The "terminable permit" is not a terminable permit but is an indeterminate permit. That used to be the expression until I think a year ago at Washington that term was interjected into a standard act of some kind. Indeterminate conveys exactly what it says. It is indeterminate; it runs on forever. I think it would be very much more straightforward to call it an indeterminate permit instead of a terminable permit. The term is misleading and not correct. Furthermore, I think this section would encounter very serious constitutional difficulties in those jurisdictions which, like Illinois, require the consent of municipalities by the constitution to the occupation of a street for a street railroad and similar utilities, because it isn't that you give up something for something less but you really get something more, and you put an additional burden upon the city or upon the municipality. In Illinois I think this section would be declared unconstitutional, so far as I know, but that is a matter of opinion, but the matter was discussed in the Spring in the City of Chicago to some extent, and we had a bill of this kind before the legislature.

Mr. AILSHIE: What effect will this section have on those companies that are now operating under a long time franchise? Suppose they don't see fit to file acceptances as provided here?

Mr. SAWYER: You can't affect them. You can't take away their franchise right.

PRESIDENT MACCHESNEY: I think my distinguished colleague from Illinois is under the impression that this title is intended to be fully informative. It seems to me that this title was developed for the express purpose, which it accomplishes, of carefully concealing the intent. As one interested in public utilities, I might favor that possibly, as under some conditions public officials never make the title mean, so far as possible, the content of the section. On the other hand, the indeterminate permit leans the other way, perhaps, and is a little unfair to utilities. In discussion there ought to be some middle ground, like continuing right of termination, or something of that sort, and I suggest that the Committee

give consideration to language along that line. I would suggest as meeting half way between the title on the one hand that is too favorable to utilities, and on the other hand, unfair to them, making the public think it was perpetual, that some neutral language be adopted, as "continuing permit with right to terminate," and ask that the Committee give consideration to the matter.

Mr. CHANDLER: In our city they have sort of temporary licenses to jitney buses. They are not exactly bus lines but they are temporarily run in some parts of the city, and they are intended to be for a short time. Would it be possible for a city to grant a license of that character after this act is passed?

Mr. SAWYER: That would not be classed as a franchise under this act, but the subject of buses is one apparently that is not given thorough consideration in this act and is one which the Committee will take up and pass on in order to submit to the next Conference.

Section 34 to 36, inclusive, were then read.

Mr. Freund raised the point that the utility ought to have the compensation to be paid it under these sections determined by a court and jury, rather than by a commission.

Mr. RYALL: In answer to Professor Freund, I beg to say that this is almost exactly the language of the Wisconsin Act, and the utilities and the municipalities both are very much interested in having these values determined by a commission rather than by a jury, because, as you know, the determination of values is rather a technical matter, depending upon engineering testimony largely, and their broad experience in the matter qualifies them much better than to pick a jury as best you might in a community to pass upon the subject. I think it is almost universal in connection with utilities acts in the United States that the question of valuation, in the case of condemnation, is left to the Commission because of their ability to pass on values.

Mr. SAWYER: I might call the Professor's attention to the fact that this matter of just compensation usually comes up in rate cases, and it is almost always, except in a very few states, determined by the commission what is a just compensation. They

value the property, and then, of course, it goes to the court in some manner as provided for by the laws, or it is taken into the federal court and determined there whether or not it is a confiscation of property.

MR. ALLSHIE: I want to add my objection along the line suggested by the gentleman from Illinois. Now this section says "Determination of Compensation." Of course, this is not that kind of compensation that is being paid for a service, but this is the compensation for a property that is being transferred from one owner to another, and it is that just compensation that is enumerated in the constitutions quite generally for property when it is taken. Now I wouldn't give my consent willingly to an act that abrogates the well established rule of fixing compensation through the established tribunals, and I think the municipalities and many times the utility owners will want to pursue that method.

Mr. Sawyer then read Section 37.

MR. FREUND: Mr. Chairman, I wonder whether those words "other than for just cause" have been carefully considered. It could not be declared invalid other than for just cause. What do you mean? You say, "If, for any reason, other than for just cause * * * any terminable permit * * * shall be held invalid" that then it shall be reinstated. It couldn't be held invalid for anything other than just cause. I think you mean delinquency or default.

Mr. Sawyer then read Sections 38 and 39.

Sections 40, 41, and 42 were read and verbal amendments suggested.

Mr. Sawyer then read Section 42.

MR. FREUND: Section 42 contains the correct language, but it is far more liberal, I am glad to see, than the Interstate Commerce Act is. It does not confine immunity to officers of a corporation. I am glad to see this done and hope it was done deliberately.

Sections 43 to 48, inclusive, were then read.

Mr. Sawyer then read Sections 49 and 50.

MR. FREUND: It seems to me there ought to be some provision for service upon the municipality, if the complainant is the public

utility and complains that the rates are too low. That is very common in public utility acts. You assume that the public utility is the party complained against, but you provide in other sections that the public utility itself may prefer a complaint that the rates are unremunerative, and if so, service ought to be made—there is no party complained of in that case, but there ought to be a provision for service upon the municipality.

Mr. Sawyer then read Sections 51, 52, 53, 54, and 55, and they were tentatively approved.

Mr. Sawyer then read the titles of Sections 56 and 57.

Mr. SAWYER: There was laid upon your desks yesterday noon a new Section 57, and also 58. It would be impossible in the limited time here to consider that question, but the Committee wishes during the year to go into this matter very thoroughly so that the different points of view and different conditions can, if possible, be met.

Mr. LONG: I will state as one member of the Committee that I cannot consent to the provisions as found in this draft. We couldn't proceed that way in my state. We can't take an appeal from an administrative board to a court, and the practice in our state of court review is quite different from that provided here or provided in the bill, but it is pretty well established by the decisions of our court similar to the proceedings for review of an order of the Interstate Commerce Commission, as laid down and found in the various decisions of the Supreme Court of the United States. Whether it is possible to make uniform the provisions of court review in a bill like this is a question in my mind.

Mr. Sawyer then read titles of Sections 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68.

Mr. SAWYER: We ask permission of the Conference to insert the four formal sections which are attached to all our Conference bills, and also substitute Sections 57 and 58 as printed for those found in the printed act.

This permission was granted.

Mr. DORAN: I would suggest to the Commission in reference to Section 55 that there ought to be an addition there, prohibiting

the Commission from considering any evidence that has not been introduced on the hearing and on which a cross-examination has not been afforded to the opposing party. We have had a great deal of trouble with that, which Senator Long knows, and when we get to the court our record doesn't show the ground on which the case was decided by the Commission.

The Committee then rose, reported progress, and recommended that the Uniform Public Utilities Act be referred back to the committee for further consideration. This recommendation was approved.

With President MacChesney presiding, the Conference then proceeded to conduct a memorial service for Cordenio A. Severance of Minnesota, John H. Fry of Colorado, Bradner W. Lee of California, Charles W. Smith of Kansas, Thomas J. O'Donnell of Colorado, and William H. Staake of Pennsylvania, Commissioners who had died since the last annual conference.

PRESIDENT MACCHESNEY: I will ask the Rev. Dr. Malaney to offer prayer. Will the Commissioners arise, please. (Response by rising).

DR. MALANEY: Oh God, Our Father, in Whom are all the spirits of the living and the dead, we commend to Thine eternal care our comrades whose names are forever secure under Thy protection. Grant unto us the strength to carry on unto a higher perfection the work which they have left with us unfinished, and so bring us all together in the happy and strong fellowship of a united country and a united world in Thy service. Amen.

The Hudson Male Quartette then sang "Lead Kindly Light."

PRESIDENT MACCHESNEY: Rev. Dr. Malaney of the Christ Episcopal Church will now read the scripture lesson.

REV. DR. MALANEY: I shall read from that ancient psalm in praise of the law of God as that which instructs and leads men to walk together. (Reading Psalm, "Thy word is an illumination to my feet," etc.)

"Abide With Me" was then rendered by The Hudson Male Quartette.

PRESIDENT MACCHESNEY: The Hon. Bruce W. Sanborn, of

Minnesota, will read the memorial on the Hon. Cordenio A. Severance.

Mr. Sanborn then read the following memorial:

It recently has been written of Mr. Severance that a mere chronology of his life would come as far as possible from depicting his character, his work and his personality. He was rich in what we call personality, was a charming and interesting companion, a loving and lovable friend. In the published letters of Franklin K. Lane, referring to a visit of his to the home known to you all as Cedarhurst in Cottage Grove, near St. Paul, occurs the following passage:

"Great chap, Cordy, and a great room he has to play the organ in, and more people love him than anyone else I know, for he loves them with an aggressiveness that few men dare to show, that gives him distinction, that is a glory."

Mr. Severance was born in 1862 in the small town of Mantorville, in southeastern Minnesota. It is rather interesting to note that in a very narrow radius of that section there have also come to the fore in recent years such distinguished names as those of his close friends. Associate Justice Pierce Butler, Secretary of State Frank B. Kellogg, his law partner for a life time. Drs. William J. and Charles Mayo, the present Solicitor General of the United States, William D. Mitchell.

Mr. Severance's education at the public schools of Mantorville, at Carleton College, of which he was later a trustee, in the law office of Robert Taylor at Kasson, Minnesota, and in the office at St. Paul of Hon. Cushman K. Davis, later Governor and United States Senator, Chairman in his time of the Senate Foreign Relations Committee, brought him to the doorway of his opportunity, a partnership with Senator Davis, in which Mr. Kellogg joined. In a comparatively small interior city then developed the firm whose business and success compared favorably with that of the leading firms of the country.

At all times Mr. Severance was actively interested in associations of his brother lawyers. He was President of his County law association, of the Minnesota State Bar Association, and became a

member of this body, the National Conference of Commissioners on Uniform State Laws, in the year 1910. I need not tell you that his interest in law improvement, in the work of his association, never lagged, and that he ever lent his support and influence wherever it could do the most good.

His administration as President of the American Bar Association stood out conspicuously for its work in behalf of Americanization, in behalf of the fundamental principles of our Constitutional Government. He quickly saw where best his efforts could be directed, and there he directed them. He would put an ax to the root of radicalism.

The Committee on American Citizenship, which has continuously done such admirable work, had its birth during his administration.

When a Senator of the United States, speaking on the Child Labor Bill before the American Federation of Labor, in May 1922, proposed such a departure in our form of government as would permit Congress, by repassing an act, to overrule the Supreme Court, he found a quick challenge from Mr. Severance. The Slogan went out "The Schools of America must save America," and a campaign was instituted under the able leadership of his devoted friend Mr. Saner which has become familiar to us all.

A great lover of music and the arts Mr. Severance was yet a singularly practical man of business; though a lover and a student of animals and of farming, his life was spent in Metropolitan centers; a constant reader of the best literature, he was essentially the man of action, with a knack for overcoming the insurmountable.

His last illness was of some duration. Stricken first in Washington, then in New York, upon returning to Cedarhurst, he rallied slowly.

He recovered to make in the United States Circuit Court of Appeals in the fall of 1924 a very clear, able, and concise half-hour argument in the case of the United States vs. International Harvester Company.

In the hope of regaining his strength he went to California, to his delightful winter home in Pasadena. A friend, previously a

guest there, and at the time ill, had drawn this picture of the surroundings:

"It is six in the morning. The sun is a long streak of salmon in a grey skirt of fog. Chanticleer is loud and conquering. The little birds are twittering all about, in wisteria, in oranges; and over on the hillside, by the cherokee roses, there was a mocking bird that hailed the dawn, or its promise, an hour ago."

"And for all this beauty, this gay cheer, this soul-lifting day-breaking I have you to thank. It is one of the most exquisite spots in which I have ever laid my head, and pity it is that I have been so downcast that I could not feel fully what was here, nor show what I did feel."

"Credit yourself, I beg, with having done all and everything that human hands and heart could do to make me 'come back.'"

"You have spent a lifetime in doing good, giving out of your heart, and the only reward you can get is the evidence of understanding in paltry words like these."

Mr. Severance grew gradually worse and the end came on May 6th.

Mr. President, out of the personal sorrow caused by the breaking of a tie of love and affection, which has extended throughout my lifetime, I move that these remarks be spread upon the records of this Conference, and a copy sent to Mrs. Severance.

PRESIDENT MACCHESNEY: Gentlemen of the Conference, you have heard the motion.

MR. SANER: Mr. President, I should like to have the honor of seconding that motion.

PRESIDENT MACCHESNEY: As many as are in favor of it will give their assent by rising. (Unanimous response). The motion is carried, and the action will be carried out.

The next Memorial will be that upon the Hon. John H. Fry, of Colorado, by Commissioner Elmer Brock, of Denver.

Mr. Brock then presented the following memorial:

John H. Fry who, at the time of his death, was a Commissioner from Colorado, died January 5, 1925. He was born in Rippey, Iowa, October 19, 1878. He received his legal education at the University of Colorado where he graduated in 1905. He began

his practice in Grand Junction, and in 1913 moved to Denver where he continued his professional career until his death. In the latter years of his life he specialized in municipal law and came to be regarded as an authority on that subject. For many years he was a lecturer on code pleading and other special subjects in the law school of the University from which he graduated.

I knew him intimately for fifteen years and I might personally recount his virtues and his accomplishments. I deem it fitting, however, to quote from the memorial address delivered by Mr. George L. Nye, who was a partner of Mr. Fry for many years:

"It can be truly said of him that, although he did not make friends easily, he never lost one. You had really to know him, to appreciate him, but the better you knew him the more you esteemed his fine qualities as a man and appreciated his abilities as a lawyer. He possessed a fine, discriminating mind, a faculty for close reasoning and a power to think through and logically analyze complicated legal questions in a way that successfully solved many knotty problems, and led one of his associates to say upon one occasion: 'If John Fry says so, the authorities will support it.'"

"His profession was his pride. An ardent member of the Denver, the Colorado and the American Bar Associations, he was never too occupied, never too heavily burdened to devote his time and energy to whatever demand was made upon him by any of those organizations."

"Although only forty-six when he died, John Fry, by hard work and constant application, had made his own place in the world and had reached a standing in his profession that promised much for the future that was denied him."

MR. BROCK: Mr. President, I move that the remarks just read be placed upon the minutes of this meeting and that a copy be furnished to his widow.

PRESIDENT MACCHESNEY: Gentlemen of the Conference, you have heard the motion. As many as favor it signify their assent by rising. (Unanimous response.) The motion is carried, and the memorial will be spread upon our records and copies sent to the family.

The next memorial will be that upon the Hon. Bradner W. Lee, of California, by Vice-President Elect Chandler of Los Angeles.

Mr. Chandler then presented the following memorial:

Bradner Wells Lee, a member of this Conference, died April 28, 1925, at his residence in Los Angeles, California. He was born at East Groveland, New York, on May 4, 1850, and was admitted to practice in Mississippi in 1871, and moved in 1879, to Los Angeles, where he resided until the time of his death.

From the time of his admission, he was engaged in the general practice of law, and as a lawyer, he ranked high in his profession, and he participated in much of the important litigation which grew out of the development of California during the last forty years.

His activities and diligent work covered an extensive range of interest in the state of his residence. He was always public spirited and he served in many public capacities with honor and distinction. He devoted much of his time to the work of civic betterment. He was one of the founders of the California Bar Association and worked assiduously in its behalf, having served, at one time, as its President.

He was a man of the highest integrity and of kindly and sympathetic disposition, and he endeared himself to those with whom he came in contact, and few men enjoyed the number of friends and admirers that did Mr. Lee.

Mr. Lee was first appointed a Commissioner by the Governor of California in 1915 and thereafter, until the time of his death, was a regular attendant upon our meetings, and always manifested a great interest in its proceedings, and in having its acts adopted by the legislature of his state.

For several years he served as Chairman of the Committee on a uniform act for the Extradition of Persons Charged with Crime, and was a member of the Torts and Criminal Law Section and of the Civil Procedure Section.

MR. CHANDLER: Mr. Chairman, I would ask that these remarks be spread upon the minutes of the Conference and that a copy be sent to his family.

PRESIDENT MACCHESNEY: Gentlemen of the Conference, you have heard the motion. As many as favor it signify their assent by rising. (Unanimous response.) The motion is carried. The memorial will be spread upon our records and copies sent to the members of the family.

The next memorial will be that upon the Hon. Charles W. Smith of Topeka, Kansas, which will be read by the Hon. Robert Stone of Topeka.

Mr. STONE: Charles W. Smith has failed to respond to the call of the roll. For ten years he was an honored and efficient member of this body; for twenty-four years he occupied the bench in one of the districts of Kansas, and for more than forty years he was an honored and beloved member of the profession. He was a graduate of the Kansas State University and of its Law School, beloved by everyone because of his charming personality, and admired by all who knew him because of his profound legal learning. I loved him because I knew him and because of the many little acts of kindness which he conferred upon me.

Charles W. Smith was born near Milwaukee, Wisconsin, June 12th, 1850. His parents were William S. Smith and Harriett Lincoln Smith. He died on January 3rd, 1925.

He graduated from the University of Kansas in 1876 and received a Master's Degree from the same institution in 1881. He graduated from Ann Arbor Law School in 1878, receiving the degree of LL.B.

He began the practice of law in Brooks County, Kansas, where he served as county attorney two successive terms. In March, 1889, he was appointed, by Gov. Humphreys, judge of the 34th Judicial District, which office he held by election and re-elections until January, 1915.

For a number of years he was regent of the University of Kansas, being the first graduate of that institution to serve on such Board. After retiring from the bench, he engaged in the general practice of law, and was special counsel for the State in several cases of large importance.

Shortly after I was admitted to the bar, I was a cub in a law office which was foreclosing mortgages made by the Lombard In-

vestment Co., then a defunct organization and in the hands of a receiver. It was in the Populist days, when corporations, and especially those that loaned money on farm mortgages, were in disfavor in the State of Kansas. Mr. Smith had been elected as a Republican to the bench in one of the Western districts of the state. It was my unpleasant duty to visit his and other courts, taking judgments of foreclosure on farms in that part of the state. His position depended upon the electorate of the people of his district upon whose farms I was asking decrees of foreclosure. I was a mere boy, a callow youth, and lawyers of eminence in practise and standing in that part of the state would appear in opposition to me, but always I was treated with the same kindly care and consideration that was given to even the eminent members of his own bar. Never even in that period was any favor shown because I was appearing against those who had elevated him to office. No man ever received any favor or was treated with inconsideration or abuse in his court, and yet, astonishing as it may seem, this man, elected as a Republican, was a few years later re-elected to the same bench as a Republican, although the majority in his district were Populists, and later during the Democratic upheaval he retained his position, and through all those turbulent days when Senators lost their positions, as did Senator Ingalls during that period of unrest, he was continued in that position of honor and of trust, the highest tribute that could be paid to him. This tho, as I say, he never extended judicial favor to those very people who were voting for him. His actions were judicial, his integrity was never questioned; he had no enemies and everyone who knew him, knew him only to love and esteem him.

As a friend, I tell that personal experience in order that you may get a picture of the man whom you perhaps never knew intimately, but only as a member of this body in his legislative capacity. He was one of those modest, unassuming men. For twenty-four years he was an occupant of that bench and, therefore, never built up a great practise or great fortune, but he had that which was worth more than money can buy, the esteem and the admiration of those who knew him and who touched him in daily life. To have

known him and to have counted him as a friend makes life sweeter and gives memory the odor of the roses and the purity of the lilies.

Mr. President, I move you that these remarks may be spread upon the record of this body, and that a copy of them may be forwarded to his family.

PRESIDENT MACCHESNEY: Gentlemen of the Conference, you have heard the motion. As many as favor it will please signify by rising. (Unanimous response.) The motion is carried. The remarks will be spread at large upon the records of the Conference, together with the chronology of his life, and copies will be sent to the family.

The next memorial is that upon the Hon. Thomas J. O'Donnell, who, while he had retired from the Conference, had only just done so and was for many years an active member of it. This memorial will be read by the Hon. Mr. Brock of Colorado.

Mr. Brock then read the following memorial:

Thomas Jefferson O'Donnell, formerly Commissioner from Colorado, died June 11, 1925. He was born in Morris County, N. J., June 2, 1856. At the age of 23 he moved to Denver and the following year, 1880, was admitted to the Colorado bar. He was one of the organizers of the Denver Bar Association and was its President in 1894. He was President of the Colorado Bar Association in 1916 and 1917. He has for years been in regular attendance at the meetings of the American Bar Association and diligent in the promotion of its objects. He was for several years a member of this Conference and greatly enjoyed the associations incident to these meetings.

For a long time he was an outstanding figure in Colorado. In debate he had few equals; as an after-dinner speaker he was a master, and as a lawyer he possessed a happy combination of faculties—was a sound advisor and powerful advocate.

On what may be called the human side his chief characteristic was his wit and humour. Some of you will recall him well if I tell you of an incident. At the meeting of the Colorado Bar Association in 1916 he was named as chairman of the Nominating Committee. The other members of the Committee excluded him

from their deliberations and nominated him for President. When called upon for a speech after his election, he said: "Gentlemen, I have been attending the meetings of this Association for twenty-five years and this is the first time that I have been chairman of the Nominating Committee."

It is not too much to say that all in Colorado respected and admired Tom O'Donnell, and those who loved him most were those who knew him best.

Mr. BROCK: Mr. Chairman, I move that these remarks be spread upon the minutes and that a copy be sent to his family.

PRESIDENT MACCHESNEY: Gentlemen of the Conference: You have heard the motion. As many as favor it will signify by rising. (Unanimous response.) The motion is carried. The remarks will be spread upon the records and copies sent to the members of his family.

The last memorial is that upon the Hon. William H. Staake of Philadelphia, Pennsylvania, long Chairman of the Executive Committee of this body and one of its former Presidents. The memorial will be read by the Hon. Wm. M. Hargest, one of his colleagues from Pennsylvania.

Mr. Hargest then read the following memorial:

While William H. Staake was not a member of this National Conference at the time of his death, July 30, 1924, in his seventy-eighth year, his connection with it, his activities and leadership in it, covered so long a period as to make it eminently fitting for the Conference to adopt a Minute, expressing our appreciation of his services and our sorrow at his passing.

Judge Staake was born in Brooklyn, N. Y., December 5, 1846. His father, Frederick Staake, was a native of the Dukedom of Brunswick, and his grandfather, Henry Theodore Staake, was a Captain of Artillery and fought in the battle of Waterloo. Judge Staake's parents came to Philadelphia when he was six years old. He was educated in the public schools of that city, graduated from the Central High School, and from the Law School of the University of Pennsylvania. He was admitted to the Bar in 1868.

Judge Staake was appointed a Commissioner on Uniform State Laws, August 5, 1901, as one of the original Commissioners from Pennsylvania, and served until the expiration of his last term, in 1923. He attended every meeting of the National Conference up to and including 1919, and also the meeting in Cincinnati in 1921. He was prevented by illness from attending the meetings in 1920, 1922, and 1923. His services not only included his full share of the duties assigned to many committees, but he was also a member of the Executive Committee, and Chairman during the long period from 1903 to 1914. Of his service in that regard President Charles Thaddeus Terry said, in his annual address:

"There terminated directly after our last session, a lengthy period of devoted service, which I believe it has never fallen to the lot of any of us to see equalled, and certainly never surpassed. The performance of his duties as Chairman of the Executive Committee by Judge William H. Staake, our fellow Commissioner from Pennsylvania, stands as a monument to fidelity. It is particularly noteworthy, as a model of industry, and as an inspiring example of the conscientious performance of public duty. Judge Staake was elected President of the Conference in 1915 and re-elected at the meeting in Chicago in 1916. He served as an ex-officio member of the Executive Committee from 1917 to 1920."

Judge Staake became a member of the American Bar Association in 1896 and during his membership served on various committees, was twice elected vice-president for Pennsylvania, twice a member of the General Council, and a member of the Executive Committee from 1912 to 1915.

He was appointed by Governor Pennypacker as one of the delegates from Pennsylvania to the National Divorce Congress, which met in Washington in 1906, and was Secretary of that Conference.

Judge Staake was one of those who organized the Pennsylvania State Bar Association in 1895, and took a deep interest in it throughout the rest of his life. He was vice-president, its secretary from 1901 to 1917, and its president from June, 1917 to June, 1918. At various times he was also Chairman of the Board of Law Examiners of Philadelphia County, Chairman of the Library Committee of the Philadelphia Law Association and Chairman of the Legal Committee of the Young Men's Christian Association, and was solicitor for numerous charitable and philanthropic organizations. This resume shows the deep interest which Judge Staake took in the legal profession and everything that pertained

to its advancement and the maintenance of its high ideals. All of these services were performed in the midst of a busy professional career at the bar, until he was elevated to the Court of Common Pleas, of Philadelphia County in 1906, where he served with distinction until, because of ill health, he took advantage of the Pennsylvania Retirement Act, February 28, 1924. He was also interested in business, apart from his professional activities, and was a Director of the Fidelity Trust Company of Newark, N. J. and the Fidelity Title and Trust Company of Pittsburgh.

But Judge Staake did not confine his energies to the domain of the law, and his business interests. He gave largely of his time to church affairs, and his civic and philanthropic endeavors were remarkable. For many years he was a member of the Council of the Evangelical Church of the Holy Communion; Secretary of the Lutheran Mission and Church Extension Society; Director of the Lutheran Theological Seminary; Treasurer of the General Council of the Evangelical Lutheran Church of North America, and Treasurer of the Board of Foreign Missions of the same church, and Director of the Pennsylvania Bible Society.

Judge Staake had been Secretary of the Board which had charge of Independence Hall; member of the Municipal Civil Service Examining Board; President of the Mary J. Drexel Home for Girls; President of the Maternity Hospital; Trustee of the Rush Hospital for Consumptives; Member of the legal Advisory Board of the Philadelphia Home for Incurables; Member of the Board of Managers of the Glen Mills Schools, a reformatory school for boys; member of the Board of Managers of the Philadelphia Young Men's Christian Association; member of the Board of Managers of the Musical Fund Society of Philadelphia; member of the Board of Managers of the Magdalene Home of Philadelphia; member of Council of Boy Scouts of America; member of the Commission for the establishment of Playgrounds in Philadelphia; member of the Academy of Political Science; member of the Horticultural Society; Historical Society, and the Civil Service Reform Association.

During the war he served as Secretary of the Central Committee on Selective Draft, and was a member of Pennsylvania's War History Commission.

Judge Staake's kindness and genial disposition won for him a host of friends. He liked to mingle with his fellow men. He was vice-president of the Lawyers' Club, a member of the Union League, the Penn Club, the Five O'Clock Club, the Athletic Club and the Philadelphia Rifle Club.

This remarkable resume is of itself an elequent tribute to Judge Staake's ability, generous service, capacity for work, and dynamic energy, much of which through the twenty-three years of his connection with this Conference he exhibited to those who, from time to time, served with him, and who recognizing his fine qualities of head and heart, were endeared to him. It was with sorrow that the members of this Conference learned of his death, and as an expression of that sorrow, of our sympathy for his family, and of our respect and admiration for him, this Minute is presented.

Mr. HARGEST: Mr. President, as a friend for thirty years, I move the adoption of this minute.

PRESIDENT MACCHESNEY: Gentlemen of the Conference: You have heard the motion. As many as favor it will signify their assent by rising. (Unanimous response) The motion is carried. The minute will be spread upon our records and copies will be sent to the family of Judge Staake.

Mr. Hart then read the following remarks:

As the ranking commissioner in continuous attendance, I feel that I should not let this occasion pass without saying a few words in respect to the memory of our departed comrades whom we honor today.

Of Mr. Fry, I can say nothing as I met him but once at the conference at Philadelphia in 1924, and then only casually.

Judge O'Donnell was known to most of us long before he became a Commissioner and many of us served with him on the General Council of the American Bar Association. He was appointed a Commissioner on my recommendation; he was a boon companion and his eccentricities of speech and manner, which were naturalness personified, endeared him to all. As a Commissioner, he was diligent, active, and able and we shall ever miss him.

Mr. Lee I had met in other forms of human endeavor besides the Conference, and in every walk of life he showed the same ability, perseverance, and industry that he showed in this body.

Mr. Charles W. Smith, of Kansas, a Commissioner since 1915, was one of the most attentive, studious and careful of our colleagues. He was a man of few words but active in debate and his opinions and views were always respected. He was a genial and entertaining companion, and a personal friend of every member of the Conference.

What can I say of Mr. Severance? My close and esteemed friend during his entire membership in this body. Big of brain and big of brawn—he was the very picture of health and we were all dismayed and surprised when learning of his long illness which eventually called him away. The seeds of disease were sown in him in the Far East, in the Balkans, to which part of the world he voluntarily paid two visits, to aid and succor the poor and unfortunate of those war-worn, famine stricken and pestilence-smitten lands, and so did he endear himself to the people thereof that his name will ever be a household name among them, and he will be remembered when the so-called war heroes are forgotten;—for they brought death and desolation, while he brought aid, comfort and assistance. Those who had the pleasure, as my family and I had, of enjoying the hospitality of his magnificent home, near St. Paul, know what a delightful host he was, and how charming Mrs. Severance was as a hostess. Although they had been married many years, their life seemed, to those who knew them well, to be one continuous honeymoon. She was, indeed, his guide, counselor and friend, the companion of his two trips abroad and elsewhere, and though words are meaningless, at this time, we all extend to her our deepest sympathy and condolences.

And Judge Staake! When I attended my first Conference, in 1903, he was the first to welcome me, and the acquaintance then formed ripened into friendship and remained unimpaired to the end. He became a Commissioner in 1901, and from 1916 to 1920 was the ranking Commissioner in continuous attendance; in that year he was unavoidably absent on account of illness which finally brought about his untimely death, and I had the honor of

succeeding to his position which I have held ever since. In a measure, Judge Staake made the Conference his life work, for though he was engaged in many other social and historical occupations he gave most of his time to the Conference and was, in truth, its most able member. He served as chairman of the Executive Committee until failing health forced him to retire. He was elected president of the Conference in 1915 and 1916, declining a second re-election in 1917. I frequently met him in his home city of Philadelphia. On one interesting occasion, Flag Day, 1917, when I had the honor of raising the Louisiana flag over Independence Hall, he enjoyed the occasion as much as did the other visitors from Louisiana, owing to his close friendship with the other Commissioners,—Judge J. R. Thornton, Mr. Thomas J. Kernan and Colonel J. D. Wall. To his devoted wife and daughter, his inseparable companions, our hearts go out in sympathy.

He and the others have gone, but their memories will ever remain as an incentive to those who come after.

PRESIDENT MACCHESNEY: These remarks will also be spread upon the record. Mr. Crook, Commissioner from Texas.

Mr. CROOK: Under the influence of this solemn moment, I wish to move that the Executive Committee be instructed to consider and report to the Conference the advisability of securing at this time, while it may be done, the photographs of the departed official members of this Conference for the permanent record of the Conference, and such future use as perhaps a permanent office of the Conference may indicate to be valuable, and in the discretion of the Executive Committee to consider also securing photographs of the lay members of the Conference.

PRESIDENT MACCHESNEY: Gentlemen of the Conference, you have heard the motion. It will be referred to the Executive Committee. If there are no further remarks, we will now have a selection by the Hudson Quartette.

A selection was then rendered by the Hudson Male Quartette.

PRESIDENT MACCHESNEY: Will the Conference rise please. The Rev. Dr. Malaney will pronounce the benediction.

Dr. MALANEY: Oh! Thou, Great Spirit and Holy Power, who

didst lead our fathers into the wilderness to found a new and mighty nation, cement and bind us together in the memory of the sacrifices of the men who have gone on before us, and especially the members of this Conference lately remembered, and in the holy bond of this memory strengthen and stir us to prepare our hearts and hands for the future; and as we share in our State and in our united country, so help us to express in our united prayer what cannot be uttered except with the great words of our leader who taught us when we pray together to say:

(Repetition of the Lord's Prayer)

DR. MALANEY: The Lord bless us and keep us; the Lord make His face to shine upon us and be gracious unto us; the Lord lift up His countenance upon us and give us peace, both now and evermore. Amen.

PRESIDENT MACCHESNEY: Be seated, gentlemen. The service stands adjourned.

Ninth Session

Saturday, August 29th, 1925, 9:30 A. M.

PRESIDENT MACCHESNEY in the chair.

MR. YOUNG: It is customary to authorize the continuance of special committees, and I move that the following special committees be continued for another year: Under the Uniform Commercial Act Section: The Committees on Uniform Sale of Securities Act, Uniform State Trade-Mark Act, Uniform Trust Receipts Act, Uniform Act to Standardize Milk and Cream Containers, and a Committee on Amendments to Uniform Acts. Under the Uniform Property Act Section: Committees on Uniform Acknowledgment of Instruments Act, Uniform Real Property Acts, Uniform Law relating to filing of Federal Tax Liens, Uniform Law Relating to Corpus and Income, Uniform Mortgage Act, Uniform Chattel Mortgage Act. Under the Social Welfare Acts Section: Committees on Uniform Child Labor Act, Uniform Narcotic Drug Act, Uniform Act for One Day's Rest in Seven, Uniform Act for Joint Parental Guardianship of Children, Uniform Sanitary Bedding Act, Uniform Marriage and Divorce Acts. Under the Public Law Section: Committees on Uniform Act for a Tribunal

to Determine Industrial Disputes, Uniform Public Utilities Act, Uniform Act Governing the Use of Highways by Vehicles, Uniform Act for Compulsory Automobile Insurance, Uniform State Inheritance Tax Law, Uniform Act for Compacts and Agreements Between States. Under the Uniform Corporation Acts Section: Committee on Uniform Incorporation Act. Under Uniform Torts and Criminal Law Section: Committees on Uniform Act for Extradition of Persons Charged with Crime and Uniform Act to Regulate the Sale and Possession of Firearms. Under the Uniform Civil Procedure Section: Committees on Uniform Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases, Uniform State Mechanics Lien Act and a Uniform Act for Notices to Legatees.

I move you that those Committees be elected and appointed for the year.

The motion was carried.

The third tentative draft of the Uniform Act for the Extradition of Persons Charged with Crime was taken up.

Mr. SIMS: For the benefit of expedition, I will recall to the Conference that this is actually the third tentative draft of the Uniform Act for the Extradition of Persons Charged with Crime. The Committee was appointed at Minneapolis in 1922. At that time in the selection of Committees, I had the honor of being made Chairman of the Committee, and prepared the first tentative draft by conference through mail with most of the members of the Committee. At that time the most interested member was our beloved deceased member, Commissioner Bradner W. Lee, of Los Angeles, so that the first tentative draft was drawn by me, corrected, after having been put in shape, and submitted to the Commissioners by Commissioner Bradner W. Lee and then afterwards reconsidered by the members of the Committee before being put before the Conference by Assistant Attorney General Markham, of Minnesota, who seemed to be an expert on the subject. Of course, I don't claim to be an expert on the extradition of persons charged with crime, but the first thing I did was to write to the book-sellers to get all the books on the subject, and there were only three that seemed to be of importance—one a little

book published in 1890, immediately after the Conference of the Governors, which was in 1887, another a large book by John Bassett Moore, a member of the Court at the Hague, and thirdly and most important, a book by Mr. Scott of the Chicago bar. Mr. Scott's book was published in 1917. It has everything in it, and it is written with such clarity with all the rules and the statutes of all the states, that it seemed unnecessary to put the Conference to the expense of employing an expert to write that out. The expert, of course, would have been Mr. Scott. Mr. Scott might have been very glad to do it for nothing, but rather than do so for the first tentative draft, I studied it with the greatest care of which I was capable at the time and drew the first draft based on Mr. Scott's book. I was unable to go to San Francisco, and Mr. Lee presented the act at San Francisco in behalf of the Committee. That Act received about half consideration at San Francisco, and the minutes were sent to me. Certain recommendations were first made. They were first made as motions and later were corrected to recommendations and came in the form of minutes. Most of those Mr. Lee didn't see fit to incorporate in the second draft. He was too unwell to come to the meeting last year at Philadelphia, and after having it under his consideration for two years he sent it to me at Philadelphia, but at Philadelphia it came too late to be printed, and, of course, it was impractical to call it to the attention of the Committee. In forming the new sections the President appointed me again Chairman of the Committee, and taking Mr. Lee's suggestions and the minutes of the action at San Francisco, I have drawn this third tentative draft. At Chicago it was considered very carefully by Commissioner Imlay, Judge Clevenger and myself. We were the only three that were able to get there, and since then we have made certain other amendments, which were presented to you in the form of an extra slip, so while we think the act is sufficiently complete to be submitted, of course, it lies with the Conference. If they find many radical mistakes in it, of course, we should be very glad to have it re-referred for further consideration.

Now, Mr. Chairman, I move that we go into a Committee of the Whole for the purpose of considering the third tentative draft

of a Uniform Act for the Extradition of Persons Charged with Crime.

The motion was put and carried, and at the request of President MacChesney Commissioner Hart assumed the Chair.

Mr. SIMS: I want to first call attention to the first section "Definitions."

CHAIRMAN: Before we come to that don't you think the title should be changed in view of the last section?

Mr. SIMS: I thought, Mr. Chairman, that it was proper to bring the discussion upon that in the last section, but we may just as well do it now. In conformity with the thoughts of Mr. Scott in his book, bearing out the very scholarly discussion by Mr. Moore in his book, that extradition applies purely to international relations and that between the states the proper method is entirely by Congress, based upon the Constitution of the United States in Article 2, Section 4, and he recommends that all reference to extradition between states be referred to as rendition or inter-state rendition. Now, it is a mere technical matter, not particularly important but it seemed proper; so in naming the act at the end we provide that this act shall be cited as the Uniform Inter-State Rendition Act. For the purpose of determining that as the title, I now move that the name of the Act and the name of the Committee hereafter be a Committee to draft a Uniform Act for the Inter-State Rendition of Persons Charged with Crime.

Mr. WASHINGTON: I think we should hesitate about that. The word "extradition" is well understood by the profession throughout the country. If you substitute this other word for that, you will have to have explanations made as to what the law is. The universal appellation of rendering up criminals from one state upon the demand of another state is called extradition in all the statutes, and I venture to say in all the constitutions in the United States, and I, therefore, oppose substituting the word "rendition" for the word "extradition."

Mr. SIMS: There is another difficulty about retaining the word "extradition," Mr. Chairman, because we have already an act called the Uniform Extradition Act; under its title it is really an

act for the extradition of insane persons from one state to another. If we call this the Uniform Extradition Act, it will be necessary to change the short title of the other act.

MR. WASHINGTON: Why not precede it, Mr. Chairman, by the word "criminal."

MR. CHILD: I don't know just what that title suggests to me. It is an impossible name. Is there a man in this room who hasn't heard of that, who would have any idea of what this referred to? If I had seen that title for the first time I would think it related to the rendering of grease and lards. That is the only connection in which I have ever heard rendition used.

MR. FREUND: The fact that we have an act for the extradition of insane persons is an additional argument why we should not change the term. If it is rendering in one case, it is rendering in another case. I thought when this suggestion was made that the term "render" was used in the Constitution or Act of Congress, but I find it is not. Such terms as "deliver up" and "rendition" do not mean anything to the majority of people. The term commonly used is "extradition," and "extradition" let it be.

MR. SIMS: The Committee deems the substance of the act more important than the name, so the Committee agrees to accept the suggestion that the name remain as it is popularly known, as at the head of the act and in the last section. When we come to it perhaps we can change it to some name that may occur to some Commissioner.

Mr. Sims then read Section 1.

CHAIRMAN: I would like to suggest to the Chairman of the Committee to use the definition of states that we have in our Constitution, which was adopted after a great deal of care and consideration, for the sake of uniformity.

MR. SIMS: The objection to that is, to those who have had an opportunity to read our introduction, that it seemed impractical to include the District of Columbia in this act, and so it became necessary to limit the term "state" to exactly what we were able to cover by this act.

MR. SIMS: We have just stricken that out, Mr. Shoemaker,

that is, the Lieutenant-Governor, but as the Constitution refers to the Chief Executive, etc., and the act of the Chief Executive, it seemed proper to state exactly what is meant by Governor because we are filling out what the Constitution and the Act of Congress refer to. What Mr. Crook suggested seems to the Committee to be unnecessary, so that we have left that out, but it still leaves it "any person performing the functions of Governor," which seems to be necessary in order to comply with the Constitution.

Section 1 was tentatively adopted.

Mr. Sims then read Section 2.

MR. SIMS: That is rather a long constitutional question based on decisions of the Supreme Court, and it seemed better to follow it,—“any person charged in that state with treason, felony, or other crime” shall on demand of the executive authority of the state from which he has fled be delivered up. Now we followed that as closely as possible, and the Act of Congress which has been brought forth in Sections 5, 27, 28 and 29 of the Revised Statutes, those two both appear in the preliminary report.

Section 2 was tentatively adopted.

Mr. Sims then read Section 3.

MR. SIMS: Now, to shorten discussion, I'll announce to the Conference that at San Francisco it was suggested that we include informations. That brings up the constitutional question which the text books have all paid a great deal of attention to and which all the courts and the various legislatures in making statutory rules have treated. The Supreme Court of the United States, so far as I know and so far as Mr. Scott knows, has never actually decided that an information in another state is not a sufficient ground for extradition, but Mr. Scott thinks, and it would seem to be sound, that as the Act of Congress drawn at that time expressly omitted, if I may use the word, or rather, went all around and avoided informations, it was the theory of Congress and the theory of the drafters of the Constitution that mere information, that is to say, on information and belief, the information of which our Constitutional conventions and our Republican rallies at the

time of the Revolution were full, should not be a sufficient basis to take a man from one state and bring him into another.

Mr. GRAHAM: Mr. Chairman, the word "information" has another meaning that Mr. Sims did not refer to, that is, a formal accusation made by a state's attorney, by an official whose duty it is to do it, and which in most misdemeanor cases takes the place of an indictment. Do you also exclude such an information as that?

Mr. SIMS: For the information of the Commissioner of Illinois, I tabulated from the statutes such decisions as were called to my attention, the states that do not allow that and the states that do. Twenty-eight states exclude the word "information" as being the basis that would include all sorts of information, I take it, both the ones to which you refer and the others. Twenty-two states, two of which are territories, Alaska and Porto Rico, allow it. So the Committee decided, as it is a very difficult word to cover so as to allow information supported by affidavits or in any way which would be necessary in order to bring it, as we think, within the Constitution, to leave out the word "information." Of course, we will submit to the wishes of the Conference on that.

Mr. FOLLAND: I do hope the Committee will put in the word "information," "indictment or information." So far as my state is concerned, this act would be wholly useless because we have grand juries about once in five years, and all criminal prosecutions are conducted by information. The warrant is simply a direction of the officer apprehending a man. The information in our state is an accusation by the District Attorney, which takes the place of and is in lieu of an indictment.

Mr. SIMS: The theory as laid down by the decisions is that a proceeding has actually been instituted in the state from which the criminal has fled. Now, that proceeding could have been based either on an affidavit, and, of course, a warrant, or it could have been based upon an indictment. The Conference at San Francisco, on the motion I think of Mr. Sturdevant, thought it well to add that if a warrant had been issued that a copy of that warrant should accompany the papers, and that's the reason the Committee put that in.

Mr. STURDEVANT: I was not able to hear the latter remarks of the Chairman of the Committee, but I merely want to state, in line with what was said by the gentleman from Utah, that in Missouri the great majority of the felonies committed in that state are prosecuted on information. That information is a trial under the oath of the circuit attorney or prosecuting attorney, as they are called in the counties. If this act be passed it would interfere with the plan which has become most popular in that state. The tendency has been for a number of years to get away from the labor and time and expense that is required to procure indictments in all classes of felonies. However, any felony that is committed may be prosecuted either upon an indictment or upon information. It is in the alternative, and elective with the prosecuting authority. I should think that provision could be made for indictment or extradition upon information, if it is provided that the information shall be upon the authority of the prosecuting officer. I don't mean now the information that is filed in order to get a warrant in the first instance, but I mean that document that assumed the dignity of the basis of a prosecution for a felony.

Then followed discussion as to the method of commencing a criminal prosecution in various states.

Mr. Freund inquired as to the meaning of the word "affidavit" in the act.

Mr. SIMS: My understanding is that it has been construed that any affidavit on which the prosecuting attorney of the state from which the criminal is supposed to have fled makes the basis for his request for requisition upon the Governor, a certified copy of which is sent to the Governor, is sufficient basis for bringing him back. Of course, the prosecuting attorney of the state from which he has fled must determine, and the Governor who has issued the extradition must determine, whether or not the person making the affidavit is credible. That would be deemed sufficient under this act.

Mr. MARTIN: I should like to ask the Committee whether or not it is the opinion of the Committee that one convicted of crime can be extradited under this act.

Mr. SIMS: Frankly, I didn't consider that question but if that is the condition of the law, the statutes as they are drawn in all

of the states and the federal statute do not cover it. I will ask our associate, Mr. Armstrong, if he is informed on that subject?

MR. BAILEY: I move to strike out in line 6 the words "an affidavit" and insert in place thereof "complaint," so it will read "or complaint made." A majority of the arrests of persons charged with crime in Massachusetts are made on complaints made either by the police officer or an individual of the lower courts, and a warrant is issued thereon, and it is the usual practise, I think, in Massachusetts if a party is arrested on a warrant issued on a complaint, if he flees away to Rhode Island or New York, to apply for extradition proceedings, and it is considered to be a good basis for extradition, that the man has fled away after being arrested on a warrant issued on a complaint. Now a complaint is, of course, an affidavit, and this language might cover it—that's been suggested by a member of the Committee and I think he was right—but the word complaint is just as common in criminal law as the word indictment, and it seems to me we might have that in there and that would help out.

MR. SIMS: The law of Massachusetts expressly provides that such demand or application shall be accompanied by sworn evidence. Now that heals any difficulty that might come up from the word "complaint." The other is the language of the Act of Congress, and it is the language of many of the states, and it is the language which is construed by the Supreme Court from the decisions we cite to be in conformity with Congress and in conformity with the federal constitution, so why take the word "complaint" if we have to support the word "complaint" with sworn evidence?

MR. BAILEY: I am willing to take that as a suggestion to the Committee.

CHAIRMAN: The next motion is that of Mr. Folland, to insert the words "or information" after "indictment" in the 5th line.

The motion was put, resulting in 29 votes in the affirmative and 12 in the negative.

MR. SIMS: I think, as the Committee haven't had a chance to confer among themselves, we would welcome some motion—since the word "information" has been put in there—some motion

to show, or to insert something to make an affidavit necessary as a part of that proceeding which is instituted by information. In the absence of that I believe it would be unconstitutional under the federal constitution, and we don't want to have the act declared unconstitutional.

CHAIRMAN: The question is on the motion of the gentleman from Missouri (Mr. Sturdevant) that after the words "or information" heretofore inserted, there be added the words "supported by affidavit of the prosecuting officer."

Mr. Washington raised the question of crimes committed in one state by an agency set in motion by a criminal in another state. He desired to give a statutory definition of "being present in the state." He moved as follows: Add after the word "crime" in the 5th line these words "and in those cases where the death was caused in the demanding state by a missile thrown or a bullet fired from a weapon or poison sent by the offender while in another state, the offender shall be deemed to have been present in the demanding state at the time of the commission of the crime."

The motion of Mr. Washington was then put and lost.

CHAIRMAN: Section 5 is tentatively adopted.

Mr. Sims then read Sections 6 and 7, which were tentatively adopted.

Mr. Sims then read Sections 8, 9, 10, 11, and 12, to which no objections were made except as to phraseology.

Mr. Sims then read Section 13.

Judge Hargest moved to strike out the word "felony" and put in "crime."

The motion made by Judge Hargest was put and carried.

Mr. Sims read Section 14 to which there was no objection.

Mr. Sims then read Section 15.

Mr. FREUND: May I ask, there are states where there no longer are capital offenses but where murder is punished by life imprisonment, but is it not bailable?

Mr. SIMS: That is worth considering. This merely says unless it be an offense punished capitally he must be bailed.

Mr. SIMS: On consideration by the committee after it got here, it became quite evident that Sections 16 and 18 should be combined

because they were misleading. We took them from earlier statutes, and so we endeavored to combine Section 16 and Section 18 in one, as shown on the amended slip distributed yesterday. I will read, therefore, the amended Section 16 (Reading). Now, that provides for two continuances before the warrant is issued by the Governor. We thought that that was sufficient.

Mr. Sims then read Section 17, to which there was no objection.

Mr. Sims then read new Section 18, formerly section 19, to which there was no objection.

Mr. Sims then read new Sections 19, 20 and 21, on which there was no comment.

Mr. Sims then read new Section 22.

Mr. SIMS: In Section 22 it becomes necessary to provide for the method of applying for the requisition. The decisions seem to indicate that in most of the states it requires duplicates. In one state it requires triplicates, but while there was a triplicate provided for in part, it was afterward left out. The decisions would seem to indicate that in most of the states, if not all, it is necessary to transmit with the requisition sufficient evidence to prove it or to provide it at the defendant's demand at the trial; so following the trial rule in most states, we provided that there must be duplicates, one filed in the proper office in the state demanded and the other transmitted with the requisition. Then let's put in there, for the benefit of reading it—it is a long section and I didn't want to put the Conference to the expense and delay of reprinting the whole section—in Section 22 at the end of line 18 insert the words "in duplicate" after "affidavits," and in line 20 insert at the beginning of the sentence in that line the words "One copy of." Then also in line 24 strike out the words "two certified" and insert after the word "copies" the words "of all papers," so that the last sentence shall read (Reading). I will read the section as amended (Reading).

Mr. GREENOUGH: We have no prosecuting attorneys for the counties. The prosecuting attorney of the state and his assistants prosecute all over the state. Would it not be wise to say "prosecuting attorney for the county or state?"

Mr. FOLLAND: The words "or information" as used in this

section, I think, ought to be bracketed, because when this law is passed those laws will not be appropriate except in states that recognize information.

Mr. HARGEST: May I ask the Committee to return to new Section 21 and consider whether they should not strike out in lines 3 and 4 the words "territory or insular possession of the United States," in view of the definition of state?

Mr. SIMS: That's the reason we put it in in this place, because we wanted the act to cover any action made by Congress approximately similar to this, authorizing those insular possessions, territories or the District of Columbia to conform substantially to this measure. Now if they authorized them to return them under statutes to be provided, for instance, the federal law as now made in the District of Columbia authorizes that it shall be done by the Chief Justice of the Supreme Court of the District of Columbia.

Mr. HARGEST: I don't wish to strike out "District of Columbia," but when you say "chief executive of any other state" that includes territories or insular possessions of the United States.

Mr. SIMS: I guess you are right about that. We will just strike it out.

Mr. Sims then read new Section 23, which he stated was to be bracketed.

Mr. Sims then read new Section 24.

Mr. BARTON: Why were the words inserted "arising out of the same facts as the criminal proceeding?" Why is there not absolute immunity from process if you are involuntarily brought into the state?

Mr. SIMS: Because in *Lascelles v. Georgia*, I believe it was, and in several other important decisions they held he could be sued civilly, and the Supreme Courts of many of the states so hold.

Mr. BARTON: In the absence of a state giving him immunity I suppose it seems a question of fairness if a man were involuntarily brought into a state by process of extradition and if he is immune from civil suit growing out of those facts, he also should be immune from any other civil process. If a man were brought into New

York and subsequently released, we ought not to take advantage of his involuntary presence there and drag him into the New York courts, and I move, Mr. Chairman, to amend by striking out in lines 4 and 5 the words beginning with "arising out of" and ending with the words in line 5 "is returned."

Mr. SIMS: The Committee hopes very much that that will not pass unless the Commissioners have had an opportunity to consider intelligently what the law now is. You understand there is nothing in the Act of Congress or the Constitution which keeps him from being subject to any civil process in the state. It is merely a matter of construction, and it seemed wise to the Committee if you are going to exempt him from any liability in civil process, if you exempted him from the liability which arose out of the facts—that's the general English term—upon which he was brought in criminally, you are giving him all the justice he is entitled to. The purpose of the decisions as laid down since 1793 was not to allow a conspiracy to get him into the state to sue him civilly, to be turned into an extradition proceeding, but to get him down and then get judgment against him, and that's all the thing provides against.

Mr. BAILEY: I would like to leave this with the Committee to consider. I do think there is a great deal in the suggestion which has been made. I was in a case where a party was enticed into Massachusetts from Rhode Island and then served in a civil proceeding, and the court said that that was not only unreasonable and unjust but unlawful. A party in Massachusetts might stir up extradition proceedings, get a party into Massachusetts and serve him with civil process in another independent proceeding. I think the Committee might well consider whether the suggestion which was made is not a good one, that he should be entirely protected from civil process while he is in the state.

Mr. HINKLEY: It seems to me that my colleague, Mr. Barton, is entirely right in this matter. There may be a certain transaction which may not amount to a crime but it may simply involve a civil liability. The man, however, is charged with crime, is extradited and acquitted. Now, has a creditor the right to take advantage of a man's involuntary presence in the state in conse-

quence of a criminal charge having been made against him, which resulted in his acquittal, in order to bring him within the jurisdiction of the court by a civil suit? It seems to me that there is a case that would come within the language of the section as now written, because it is a case arising out of the same transactions and yet it is manifestly unjust if a man is arrested criminally and extradited, it might even be a close case, and he is acquitted, that he should then be subject to civil process. I think those words ought to go out.

The motion by Mr. Barton was then put and declared lost.

Mr. SHELTON: I would like to offer a motion that no immunity be given at all.

Mr. SIMS: That would mean that the entire section would be stricken.

The motion was then put and lost.

Mr. Sims then read Sections 25, 26, 27, 28, 29 and 30, on which there was no comment.

Mr. MARTIN: In order to get before the Conference the question as to whether it desires that this act should be extended to cover the case of persons convicted of crime and who have become fugitives, I ask unanimous consent to return to Section No. 2. I move that Section 2 be amended by inserting the words in the 7th line after the word "with" the words "or under an unsatisfied judgment of conviction for," so that as amended it would read (reading). As I understood the Chairman of the Committee, it was not the purpose of the Committee in drafting this act to cover the cases of fugitives who have been convicted.

Mr. SIMS: It wasn't called to the Committee's attention. We are uninformed on that subject, Senator Martin.

Mr. MARTIN: I think it is important to facilitate the extradition of persons who have been convicted of crime. The suggestion has been made by one of the Committee that in that case the person could be indicted in the state from which he escaped before the escape, but the case I cited to the Committee of the Whole was a case of the violation of parole, for instance, and that is the most usual case in which you have these questions of extradition, and that is not a crime. It's the violation of the rules or regulations

of the administrative body that has charge of the prisons, and, therefore, they can make no charge against him in the states, because violation of parole is not an offense. I simply want to get the opinion of the Conference as to whether or not this act is broad enough to cover the case of a person convicted and for that reason.

Mr. SIMS: The Committee is not as fully informed on that subject as it would like, to accept it. The Committee merely hopes that the Commissioners will vote intelligently on that subject. As Chairman of the Committee I haven't had a chance to advise with the other members of the Committee, particularly Mr. Armstrong, who has had a large experience in these matters. Did I understand you to say, Mr. Martin, that the case you mention would not come in conflict with the federal extradition laws or the constitution? They were intended to cover that sort of thing. The decisions of the Supreme Court of the United States and most of the old statutes are that no extradition is legal that isn't in conformity with the federal constitution and covered by the Act of Congress. We are merely amplifying the federal constitution and the Act of Congress. If Senator Martin is sure of that, the Committee has no objection to it going in. It depends on whether an escaped convicted criminal comes under the proper interpretation of the word "charged with crime."

Mr. MARTIN: I do not think it would be a violation of the constitutional provision. The act is simply a definition of what constitutes "charged with crime." The constitutional provision is that those charged with crime may be extradited, and I think it is perfectly competent to say that a man is charged with crime within the meaning of that constitutional provision if he is convicted.

The motion made by Mr. Martin was then put and carried.

Mr. RILEY: While we are on Section 2, I would like to direct the attention of the Committee to the words "other crime." The words "any crime" are used all through the act. Now it seems to me that that is broad and that it ought to have a definition. Under that you could bring a man from another state for some mere trifling crime. In our state we have a definition, "any other crime punishable by confinement in the penitentiary."

Mr. SIMS: Mr. Riley, your state limits the constitution and it is probably unconstitutional in so doing. Undoubtedly under the federal constitution any state can extradite from any other state a person charged with any crime of any sort if the Attorney General sees fit to induce the Governor to make the requisition. Your limitation, if you will pardon me, is an unconstitutional limitation.

Mr. RILEY: The question is whether or not for a mere violation of some local law that would come under the definition of crime, like an ordinance of a city, whether or not you would have a right to bring a man from another state and require the Governor of another state to go through all the procedure in order to bring him. I think the word crime ought to be defined. It ought to be that any other crime punishable by confinement in the penitentiary, and I so move.

Mr. BAILEY: I hope this won't pass. We some years ago adopted and approved the Uniform Desertion Act, and that was largely thought worth while because the existing laws requiring husbands to support their wives and children were evaded, because in Massachusetts, as soon as there was any danger of the husband being compelled to pay, he ran away to Rhode Island or New Hampshire, and it was conceived that if that might be made a criminal offense, even though a misdemeanor, he could be extradited, and so in Massachusetts ever since we adopted the Uniform Desertion Act we have been bringing back husbands from not only Rhode Island but California, and it would undo that, I think, if you should make this change now proposed.

The motion was put and lost.

Mr. CABANISS: I should like to ask the Chairman if it should not be within the power of anyone, or the right of anyone charged with being a fugitive from justice under Section 20, to show that he is not a fugitive from justice within the meaning of the constitutional provision.

Mr. SIMS: There are two provisions for that, Mr. Cabaniss. The first is that the Governor before making a requisition has to become satisfied that he is. Now when he has been satisfied that he is and issues the requisition and it comes to the other state, it

is provided especially that he shall not be taken out of the state until he is given an opportunity to apply for a writ of habeas corpus. That's a fundamental question, I am glad you brought it up at this time. There are several methods of providing to assure the identity of a fugitive. In one or two states you can't take him out until you go before the court, but it seemed to the Committee in drafting it, that if he had any doubt himself about whether he was the man summoned, if you gave him an opportunity to have a writ of habeas corpus, he would do it, if there was any doubt in his mind. Therefore, we left it optional with him to apply for that writ.

The Committee then rose, reported progress, and asked leave to present the bill later for passage, if possible. The Conference approved the report.

The Conference then went into a Committee of the Whole to discuss the first draft of a Uniform Federal Tax Lien Registration Act, Mr. Cabaniss in the chair.

Mr. WASHINGTON: Mr. Chairman, I have the honor of presenting the First Tentative Draft of the Uniform Federal Tax Lien Registration Act. This is very short and I think we can finish it before the hour of adjournment.

I should state preliminarily how I came to be connected with this situation. An Alabama lawyer sent the Alabama statute upon the same subject to a Nashville lawyer, who referred his letter to me, which contained a copy of the Alabama statute. On examination I discovered that there was no provision made for releasing the federal tax lien. I added a section incorporating that feature, and sent the whole bill to the Committee on Scope and Program, and they reported at the last Conference that it was covering a matter in which uniformity of state legislation was desirable. Thereupon I was appointed Chairman of the Sub-Committee.

Our legislature convenes on the 1st day of January biennially, and during the first month or six weeks I was engaged every day in court and had no opportunity even to ascend Capitol Hill to visit the legislature. During that period a bill was introduced covering the same subject by a Senator, and when I finally ascended Capitol Hill I discovered that the bill had passed without opposition

in both Houses and was in the hands of the Governor, the bill being substantially the same as the bill I had drafted. I incorporated that bill, and present it to you as the uniform bill upon the subject already adopted in my state, of course, without having the usual sections indicating its uniformity, and the usual words in the title.

The title was criticised on the grounds that "Internal Revenue" should be omitted, that the place of registration should be a name to be placed in brackets, and that the title was too lengthy and did not conform to the Conference form.

Section 1 was read.

Mr. Hardin requested that Section 3186 of the United States Revised Statutes be compared with this draft, to make the proposed state act conform to the federal law.

Section 1 was tentatively approved.

Sections 2 and 3 were read and approved without discussion.

Mr. Washington then read Section 4.

Mr. HART: Can we impose a charge upon the United States? I think that should be eliminated. Suppose the United States does not pay the fee of 25c, we probably couldn't make it. If the United States files a lien the United States is the creditor. We can't force the United States to pay 25c, or any other amount.

Mr. STURDEVANT: Before that is done, I would like to say that there is no reason why the United States Government should be exempt from paying a legitimate fee for performing state offices. They do in other instances; they pay court costs. There is no power by which you can compel a state officer to exempt the United States, nothing except in a state of war. I think it would be an injury to the bill to strike that out.

CHAIRMAN: Does the gentleman from Louisiana move to strike this section?

Mr. HART: Yes.

Seconded.

Mr. BAILEY: It seems to me, gentlemen, that it is all right just as it is. The United States is going to get something. If it is allowed to file this notice, it is going to get a lien good against

everybody, because everybody will be affected with the notice, and it is fair enough to say they should pay 25c to cover the expense of filing. They don't have to pay it and they don't have to file, but if they do want to file they might pay the 25c and then they will get something which will be a benefit to them and be a benefit to purchasers of property also, because they are protected if they examine the record. I think it ought to stay in.

A MEMBER: The federal government files a lien under the existing statute by filing with the clerk of the United States District Court, and files a lien throughout the state by so doing. The purpose of this act is to make it permissive so under the federal filing, the regular real estate records of the county would be accessible to the examiner of a title and abstracter. If such permissive law is not passed and the United States files a lien by merely filing with the Clerk of the United States District Court, the examiner has to go to the seat of that court to examine the title otherwise locally examined. This is permissive, and unless we make it absolutely in accord with the Act of Congress requiring no charge, it will be ineffectual and the government will ignore it.

Mr. Washington then read new Sections 4, 5, 6 and 7, which were approved after suggestions as to language.

The Committee rose and reported that it had considered the Uniform Federal Tax Lien Registration Act and requested that the act be considered for approval by the Conference at this annual conference. The report was approved by the Conference.

The Conference then went into Committee of the Whole to consider the Uniform Chattel Mortgage Act, Mr. Saner in the chair.

Mr. HOGAN: Mr. Chairman and Members of the Conference: This Committee on a Uniform Chattel Mortgage Act is presenting to you what is practically its third tentative draft. This Committee came into existence in 1922. The Uniform Chattel Mortgage Act was then created, that is, its Committee work was started in 1923. We presented at the Minneapolis meeting our first tentative draft, and were fortunate in having with us at that time Professor Llewellyn of Yale Law School as our draftsman, whose valuable service has continued with our Committee to the present time.

The draft, as presented at the Minneapolis meeting in 1923 dealt chiefly with the rights of the mortgagee as against third parties. This act which we now present is in its completed form and deals not only with that phase of the law but also the rights relatively existing between mortgagor and mortgagee.

Now, gentlemen, in view of the fact that we have so short a time to present this act, it is my personal wish as Chairman of this particular act, and it is the wish shared in by the other members of our Committee, that Professor Llewellyn be extended the privilege of leading the discussion relative to the various sections of this act. Therefore, Mr. Chairman, in the interest of efficiency and prompt action, for I must say that this act cannot be presented for final adoption at this session, I move you that Professor Llewellyn be extended the privilege of the floor and be permitted to lead in the discussion of the work of this Committee, so far as we have opportunity to do so.

CHAIRMAN: If there is no objection, the Chair will recognize Professor Llewellyn for the purpose of leading the discussion of this act.

Mr. HOGAN: Gentlemen of the Conference, will you have the kindness, in view of the shortness of the time at our disposal, to turn to part II of the act, page 19? For the present the Committee will pass over the formal sections. I will read the first section of Part II, Section 9.

Mr. Hogan then read Sections 9 to 13 which were tentatively approved.

Mr. WILLISTON: It seems to me you are going very far to make a contract to give a mortgage on property not yet acquired by the mortgagor, to give that effect against third parties indefinitely without any limits. That, it seems to me, will raise a very broad question of policy—if I can for present value mortgage whatever I am going to get the year after next, and the mortgagee by having that filed now can tie up against the world whatever I get the year after next.

Mr. BOGERT: Isn't it true that your act says that in order to have an enforceable contract without consideration, the parties must state that they intend to be bound, whereas in this section

if you make a contract to make a mortgage, they don't have to state they intend to be legally bound? They simply have to make the contract in writing and have it signed by the parties.

Mr. WILLISTON: As to your question of validity of contract between the parties, I am not troubled at all.

The Committee rose, reported progress and asked leave to sit again, which was granted.

On motion of Mr. MacChesney the Committee on a Uniform Real Property Mortgage Act was requested to consider whether the foreclosure fees should not be placed in brackets in the act.

The Conference adjourned until 8 p. m.

Tenth Session

Saturday, August 29, 1925, 8 P. M.

Mr. Miller in the chair.

President MacChesney presented a resolution regarding the investigation of methods of mining oil and the possible arrangement of a system which would conserve the oil and prevent waste, and moved that it be referred to the Executive Committee. The motion was adopted after favorable comment by Messrs. Bailey, Jones and McDougal.

The Conference then went into Committee of the Whole to consider further the Uniform Chattel Mortgage Act, Mr. Vander-vort in the chair.

Sections 14 to 17 were read without comment.

Mr. Hogan then read Section 18, and moved its adoption.

Mr. FREUND: As the criticism I am about to make relates purely to a drafting matter, I wish to preface that observation by saying that I have never read an act with greater pleasure and more admiration than I have this one. It seems to be an excellent piece of draftsmanship, but there is one thing I think open to criticism and that is in Section 1 there are a number of definitions which, it seems to me, are contrary to the general practise of the Conference in drafting acts. I refer to those definitions that merely state the meaning abstractly of a term without having

anything of a conventional character in it. I don't know whether I make myself clear. I think a definition is perfectly appropriate where it is of a conventional character, that is to say, where you give to a term a meaning for the purpose of the act, including certain things as to which there otherwise might be doubt, but when you examine Section 1 the terms "default," "discharge," "due filing," "loss," "obligation," and "obligation to secure," those are, as far as I can see, purely abstract definitions, and I rather regret seeing this practise get into our acts of having definitions that do not have any conventional purpose. Do I make myself clear?

Mr. LLEWELLYN: Quite clear, Professor Freund. The only question in my mind is one of fact. Each one of the definitions to which you refer grew in the history of the act out of an impossibility of—at least, I thought it was an impossibility—of expressing clearly in the sections without undue extension, various complexities that had to be expressed; and each of the definitions, therefore, is of a single term which is used repeatedly throughout the act, just as a term, to indicate everything in the definition, which I understand to be what you mean by convention.

Mr. FREUND: I mean if a definition does nothing but express the true meaning of a term in law, then I think it is objectionable, but if it is of a more or less arbitrary character it has a very legitimate place. Now I differentiate between the various definitions in Section 1. I pointed out those which it seems to me do not satisfy the conditions which alone, in my opinion, justify a definition.

Mr. HOGAN: Mr. Chairman, the Committee is willing to omit Section 16 in its next draft, in view of the suggestion that it is practically surplusage.

Mr. LLEWELLYN: I will read new Section 18.

Mr. MOSS: May I refer back to Section 14? I rise for information as to just what is the effect, in the opinion of the Committee of that section? Sub-section 1 there reads, "No provision of a mortgage shall be valid which gives the mortgagee right to possession before default." The later sub-section seems to indicate that the effect of a provision of that kind would simply prevent

the use of it from creating a mortgage and make it a pledge, but the section itself would indicate that the instrument was invalid, and the instrument remains a mortgage.

Mr. LLEWELLYN: It is thought the whole section has this effect, that if an apparent mortgage is drawn containing such a provision under the second section and the first section, the mortgagee has an option to either treat it as a pledge or agreement to pledge, on the one hand, or file it as a mortgage and sacrifice that provision in so doing.

Mr. Hogan then read Section 19 and moved its adoption.

Mr. FREUND: Mr. Chairman, I again venture to question whether anything is gained by this section. I have the same question with regard to Sections 21, 22, 23 and 24. They all seem to me to simply express obvious principles, and I just wondered whether you gain anything by stating things which are the law anyway. I am constitutionally a little bit adverse to stating things which I think would be, as a matter of course, assumed.

Mr. LLEWELLYN: The objection of Professor Freund, I take it, is that several sections of the act, and it is not wholly confined to the sections that you have mentioned, are declaratory of existing law on which there is no controversy. In part it has been felt wise to do that because of other sections of the act. For instance, when it is provided that under certain circumstances a mortgage shall be void or no mortgage shall be valid under those circumstances. It was observed at Minneapolis that it was wise to have or to set against that a statement that otherwise it would be valid, and that is the reason for Section 19.

Mr. WILLISTON: I venture to say that I fully agree as to Section 19 with what Mr. Freund just said. It seems to me that Section 19 is pretty close to a plain truism.

Mr. Hogan then read Section 20 and moved its adoption.

Mr. FREUND: I have again a question that's a question of substance. Do you not mean simply to invalidate any agreements that are unfavorable to the mortgagor if an agreement would be unfavorable to the mortgagee? In other words, you enlarge the right of the mortgagor with reference to foreclosure. You would not invalidate them.

Mr. Hogan then read Sections 21-23 to which there were no objections.

Mr. Hogan then read Section 24.

Mr. Hogan then read sub-section 1 of Section 25, and moved its adoption.

Mr. WILLISTON: I would like to raise the question whether it is conceived desirable that goods to be raised or grown or an increase of animals may be mortgaged for an indefinite period in the future.

Mr. LLEWELLYN: As to the increase of animals, my feeling is that I don't know, but I think not, but I am not aware of the statutory rules limiting the mortgaging of increase of animals. The mortgaging of crops for an indefinite period in the future, wherever it is now limited by statute in the states, is saved by a later provision, sub-section 5 in its present form. Where the policy of a state has not seen fit to rule on that point, we have left it. Perhaps a general limitation should be in, however, and I don't think there would be any objection on our part to one, if the Conference so thought.

Mr. SANBORN (a former Commissioner): There has been a question running in my mind as I glanced over this—it has probably been answered and is covered, but I haven't found it. The kind of mortgage I am particularly interested in in my work is the trust deed on public utilities, which covers, of course, real estate and a great deal of personal property which couldn't be bought in. We have a special statutory provision whereby we can combine them, and many of our rules as to ordinary chattel mortgages, particularly the after-acquired goods, don't apply. Now it seems to me quite impossible to have a trust deed on securing public utility property and limit the after-acquired goods to five years. I wondered if that provision would affect that situation.

Mr. Hogan then read sub-section 2 of Section 25, at the top of page 32, and moved its adoption.

CHAIRMAN: If there is no objection, that and the previous sub-section will be adopted.

Mr. Hogan then read sub-section 3 of Section 25, and moved its adoption.

Mr. MARTIN: Referring back to sub-section 2, may I ask a question? There are cases with which the question of a landlord's lien for rent would come in, that would take precedence of the lien of the mortgage. The question is whether or not the Committee took that into consideration in any other section of this act.

Mr. LLEWELLYN: We will note the suggestion.

Mr. Hogan then read sub-section 4 of Section 25, and moved its adoption.

CHAIRMAN: If there is no objection, that sub-section will be adopted.

Mr. Hogan then read sub-section 5 of Section 25, and moved its adoption.

Mr. WILLISTON: I should like to suggest this inquiry to the Committee. Mortgage is defined, I suppose, as a transfer of a legal or equitable property interest. Now, of course, in after-acquired goods you can't transfer a legal or equitable interest. At the time the mortgage is made there aren't any goods. You can't have property in goods which don't exist. Is there consistency between the definition of a mortgage as something that transfers a legal property interest, and speaking of mortgages of future goods?

Mr. LLEWELLYN: There is none, sir, and still less is there consistency between the definition of mortgage and the statement under sub-section 3 of this section that the transfer shall be deemed to have occurred before the goods came into existence. Now, if it be desired by the Conference to achieve a scientific consistency there, it can be done. We achieved an inconsistency scientifically, with our eyes open, because we thought we were talking in a language that the courts could understand.

Mr. Hogan then read Section 26, and moved its adoption.

CHAIRMAN: If there is no objection, it is adopted.

Mr. McDUGAL: Mr. Chairman, might that not be a fruitful source for controversy, "If the mortgagee at any time expressly or impliedly consents to the sale?" Now what's to be the test as to whether a mortgagee has impliedly consented? Where is the line to be drawn?

Mr. LLEWELLYN: We regard that as a question of fact. We couldn't codify it. Looking over the cases on the point and the multitude of situations which arose, we found ourselves utterly unable to frame a general rule, and thought we would have to leave it up to a jury or to a court in any individual case to pass on as to whether there was.

Mr. McDUGAL: My suggestion would be that you provide in there that there must be a written consent of mortgagees.

Mr. LLEWELLYN: That would fly in the face of many cases, and we believe, sir, that it would be contrary to the facts in many cases. We believe, for instance, that there are many cases in which the writing says, "You shall not re-sell," and both parties understand perfectly well that the mortgagor is permitted to re-sell and go ahead on that basis.

Mr. McDUGAL: You are opening the door to all kinds of controversy and dispute, when it can be so easily settled by requiring that the mortgagee give his written consent before the mortgagor shall dispose of the property.

Mr. LLEWELLYN: Now the issue is perfectly clear, sir, and it is going to be this, on the one hand, following your suggestion, there is never a doubt as between mortgagor and mortgagee in court as to whether there has been a valid consent to sell. That will certainly be accomplished by requiring a written consent. That's desirable. On the other hand, that same rule will result in the defrauding of many perfectly bona fide and utterly helpless purchasers who buy under circumstances which will lead an ordinary man to believe a mortgagee had permitted the mortgagor to sell where there is no right. Now, faced with that dilemma we chose the latter, the protection of the purchaser. We are quite willing to abide by the view of the Conference on this.

Mr. McDUGAL: It seems to me that there can be no danger to a purchaser in requiring the written consent of a mortgagee who has an interest in that property, and it leaves it open to fraud. Suppose the mortgagor goes and sells his property, and then a controversy arises between the mortgagee and the purchaser, and the purchaser says, "Well, I told him the mortgagor sold the property and he made no objection. He said it was all right."

It leaves the question open to all kinds of controversy and the practise of fraud.

Mr. WILLISTON: I wish to support very strongly the attitude the Committee has taken. When I go to buy an automobile out of a salesroom, I don't look up the chattel mortgage records and see if it is mortgaged. To say that the purchaser knows or will know if the statute requires a writing is, of course, a purely fictitious position.

Mr. BRONSON: Mr. Chairman, with reference to the discussion just had, let me present to the professor a concrete case and see how the interpretation of the Committee on the law as it is drawn would apply. A, an owner of a farm, gave to B a chattel mortgage on some grain. The grain when harvested was sold by A to C, upon the representation that B had consented to the sale, not only before the mortgage was made but also after the mortgage was made. B sues C. C defends on the ground of consent given before the chattel mortgage was ever made, and the written agreement didn't bind him, under the Committee rule, and second, the consent after the sale operated as a waiver, but B, the mortgagee, contends that he gave a consent to sell but only if the mortgagor would take the proceeds and bring them to him.

Mr. LLEWELLYN: Under the act as drawn the answer to that much is very clear, sir.

Mr. BRONSON: What is it?

Mr. LLEWELLYN: The answer to that is that C wins. The purchaser wins, because the consent to the sale was good and the disposition of the proceeds was a matter between the mortgagor and mortgagee.

Mr. AILSHIE: May I make merely a suggestion to the Committee? In my state we have had just what Mr. McDougal speaks of, a provision that the consent must be in writing. Now that has worked, I may say, admirably, if we can say that any law works that way. With reference to our apprehension that we might lose on the purchase of an automobile, I don't see where there is any more danger in that than there is if you buy a horse or a cow or a carload of wheat, or anything else. What is the use of a recording law? If the mortgage is of record, isn't the purchaser

chargeable with notice of that? Now the way to get title to that is to find, first, if there is a mortgage on it. If there is, then be sure you have got the written consent of the mortgagee. That's the way we pass title.

Mr. LLEWELLYN: You would be prepared to admit that style of placing the goods in a retail place as a substitute for a written consent?

Mr. AILSHIE: I think most mortgages—indeed, in our state they provide, if it's a stock in trade they must provide in the mortgage for it, but what I was going to say, carrying out the illustration a little further, how do you know that the man in possession down here of a stock of automobiles is the owner, that he isn't holding them under a conditional sale contract? You have got to look into that and ascertain that fact. I call your attention to the fact that this is not a new statute with us, it is an old one, and the minute you leave it to an expressed or implied consent, you open the door to all kinds of fraud. You will have men swearing themselves black in the face after they purchase a lot of stock. You take a shipment of wheat from the warehouse, or you take any kind of property, and the man, of course that has purchased it is going to be looking for some implied consent.

Mr. WILLISTON: May I ask Judge Ailshie a question? Suppose in regard to that automobile that we have been talking about, there is no written consent given and the purchaser says to a person who is supposed may have a mortgage and who, in fact, has a mortgage on it, he says to him, "Do you permit this sale? Is this sale to me all right? I understand you have a mortgage but you will allow the sale to go through to me?" The mortgagee says, "Yes, it is all right. Buy it and pay your money." And the purchaser does buy it and pays his money and there isn't any written consent, can the mortgagee afterwards reclaim that automobile as security?

Mr. AILSHIE: I think not. In that instance he would not be allowed to perpetuate a fraud.

Mr. WILLISTON: That's just the kind of a case this section applies to.

Mr. BRONSON: Professor Williston, may I ask you this further question? Supposing it is the mortgagor who says to the purchaser that the mortgagee has said so and so, and then when the purchaser gets the automobile and is running around the streets in it, Mr. Mortgagee finds it and starts to grab it, and then comes the controversy of whether he had said that he could sell the automobile.

Mr. WILLISTON: What the mortgagor says makes no difference whatever. It is what the conduct of the mortgagee has indicated as permissible.

Mr. LLEWELLYN: May I raise one question before we go further with this? It seems to me there is a question of pretty wide importance and policy which lies at the base of the difference between the Committee and Mr. Ailshie and Mr. McDougal. It seems to me that there is implied in their position a suggestion that we should get rid of oral evidence in these transactions. We are in full accord with that, except we don't know how to. For instance, we do not feel that, fraud or no fraud, we can refuse to allow an absolute deed to be proved a mortgage. We know, we are very sure that in many cases the proof is fraudulent, and yet we believe it would result in greater fraud to hold that it couldn't be proved to be a mortgage, and something of the same point of view underlies the approach of the Committee to this problem. We admit fully that we open the door to much fraud by our subsection 1, but we believe that we close the door to a bit more than we let in, and we can do nothing except ask the instructions of the Conference which particular batch of frauds they wish to open the act to. We don't believe you can exclude both. If you open to one you shut out the other, and vice versa. We feel in many cases when the mortgagor has been given consent to sell that the mortgagee will later deny it when the mortgagor fails to pay the debt. We feel that the mortgagee can swear himself out of a consent just as well as he purchaser can swear himself into a consent.

Mr. BEERS: Mr. Llewellyn awhile ago used the instance of going into a store and buying any article, great or small. How are you safe in buying a hat, or a diamond, or anything else under the act without employing a lawyer to search the title?

Mr. LLEWELLYN: You are safe only if the mortgagee has consented that the goods be held in the sales room.

Mr. BEERS: You go and buy a diamond. You don't know that the mortgagee has given his consent at all. All you see is a tray of goods in an open store, and the diamond among them. Should there not be some provision that allowing them to be shown as the stock in trade is impliedly a consent?

Mr. LLEWELLYN: We attempted to cover that by subsection 2(a) of this section.

Mr. BEERS: It speaks of mortgagee's consent to placing of goods. There are only two ways to give consent. He can say, "You can place the goods in stock," or he can stand by and know about it and see it done. It is perfectly conceivable that he may be at a distance and knows nothing about it, one way or the other, and then he comes in and says, "I didn't give my consent." As a point of fact, it would be in accord with the Committee's idea to say that, as to allowing the goods to be placed. Will the Committee take that under consideration?

Mr. LLEWELLYN: Yes, sir.

PRESIDENT MACCHESNEY: I guess that last suggestion is just what I had in mind as meeting it. We have that situation. "The mortgagee's consent to the placing of the goods in the mortgagor's stock," placing the mortgagor in a position so as to be able to place them there; in other words, he should not be held responsible for the consent to the placing of them there, but if he puts the mortgagor in a position to do it by loaning him the goods or furnishing them to him, he ought not be allowed to raise the question later against a bona fide purchaser, even though he didn't consent to their going into stock.

Mr. PHILLIPS: It seems to me that the suggestion has offered a solution to the issue. I am strongly in favor of the proposition that ordinarily speaking the consent should be in writing, because it furnishes an absolute proof, and there is no question about it if it becomes an issue in court, but when you go into a man's store where a person has taken a mortgage on the stock of goods—of course, you go over the mortgage records sometimes for a com-

modity in a store—but if you put a provision in that a consent in writing will not apply to goods sold in the ordinary course of retail business, you will protect a person against that situation; whereas if I go out to buy a horse or an automobile outside of the ordinary course of business, why shouldn't I search the records to see if there is a mortgage against it, and have it released in writing or a consent to sell in writing and have the question definitely settled? I know in mortgages of live stock, and things of that character: out in the West we ordinarily come to a chattel mortgage, and if we were faced with this situation it would raise a lot of trouble. The mortgagee doesn't go and take the herd of cattle and sell them. He says, "You ship the cattle in to some broker in Kansas City and let that broker remit the proceeds to me." Now, if the broker and the mortgagor connive together and get the money turned over to the shipper of the cattle, that mortgagee is absolutely out because he consented to the sale. About the only way you could handle that class of merchandise in the West is by shipping to market and having the proceeds sent in, and the owner of the mortgage consents in the ordinary course of business to sell, but it is conditional that the proceeds be remitted. Why shouldn't that consent be in writing in the ordinary transaction, but as to a stock of merchandise or articles in the ordinary course of business, let there be an implied consent by permitting it to go through the ordinary channels of retail trade.

PRESIDENT MACCHESNEY: Suppose cattle were shipped subject to mortgage to yards in Kansas City, in the ordinary course of business, and by consent of the mortgagee they were so shipped and the proceeds remitted to the mortgagee. What are the conditions then under this act?

MR. LLEWELLYN: My understanding would be, under the act as it now stands, that title would pass to the purchaser, whoever that might be, and the mortgagee would have his claim, quite apart from the act, against whoever received the proceeds under this agreement to transfer the proceeds to the mortgagee under the ordinary trust documents, but the purchaser would take the cattle free of the mortgagee's claim.

MR. MARTIN: If this section, as Professor Williston has said.

really raises the question of estoppel, and it's a question of equitable estoppel, why put it in the act at all.

Mr. LLEWELLYN: Well, I think the answer to that lies along this line, Mr. Martin, that in many states it is at present law that consent by the mortgagee that the mortgagor may sell the goods without an immediate accounting voids the mortgage as against creditors. We believe that is an undesirable rule, and in providing that consent may be given without voiding the mortgage as against creditors, consent to sell, we were concerned with stating what effect it did have, if it didn't have that effect.

PRESIDENT MACCHESNEY: Mr. Chairman, if I may I would like to ask Judge Phillips with reference to his desire concerning that section, under the circumstances as stated: where cattle are shipped to the yards and sold by the commission merchant to the purchaser, was it your idea under those circumstances that unless the mortgagee had consented that the purchaser should not take free from the lien?

Mr. PHILLIPS: Yes, I think that's the law, unless the holder of the mortgage consents, the mortgage falls into that state.

PRESIDENT MACCHESNEY: I think it would be very difficult to carry on business in the yards if that were to be the rule. If the cattle are shipped in the ordinary course of business to the yards and sold by the commission merchants to a purchaser there, it seems to me that the mortgagee—I believe that to be the practise—has by consent to the shipment waived his claim against the purchaser and is remitted as to his rights as against his mortgagor, and I think that should be the rule. Otherwise you would have to close up the yards, as I see it, and that's the reason I was particularly interested before this discussion came up, and if I may raise it now in sub-section 3, it has a bearing on that (reading sub-section 3). Does that have some relationship to the duty of the purchaser to see to the application?

Mr. LLEWELLYN: Not at all, sir. That simply states that if the mortgagee, who consents to the sale of the mortgaged goods, wishes an accounting of the proceeds he shall make it express. If he wishes the condition which Mr. Phillips has suggested to

exist between himself and the mortgagor, he shall say so. That section in no way touches the third party purchaser.

Mr. McDUGAL: It seems to me that as to the question in regard to the cattle that have been shipped to market, there is no trouble about that, for the reason that when the cattle are shipped out of the county where the mortgage is recorded it has no validity against the purchaser in the foreign market. Then, in regard to your purchasing an automobile out of a sales room, it seems to me that the same rule applies as buying a hat out of a retail store, and that has been taken care of by another section. Those are not questions that I am concerned about here. Now, in our country the farmers give a mortgage on their crops; they give a mortgage on their mules, their horses or their farming utensils, wagons and on their cattle. We have a great many cattle in Oklahoma. Now, if you leave this matter open so that the mortgagor can go into collusion with some professional crook in the community, sell to this crook the mortgaged property and then one or two, or both of them, swear that the mortgagee consented, or if he didn't consent in so many words that he impliedly consented. Here's a cattle buyer who goes to the bank where he knows the bank has a mortgage on John Smith's cattle. He says, "I think I'll go out and look at John Smith's cattle. Maybe I will buy them, if we can agree on the price." Well, the banker doesn't say, "You shan't do it." He probably will not say anything; he is not called on to say anything. Why should he; he has a mortgage? And he goes out, looks at the cattle and buys them, and then when the bank undertakes to protect its right, why, he says, "I told you the day I went up there that I was going out there to buy those cattle and you didn't object. You impliedly consented." Or for that matter he or the other man, or both of them—and it would be to the interest of both of them—could swear that way, and there would be two against one who would swear that he gave his verbal consent and said it was all right. Then, another question arises, as the gentleman over there suggested awhile ago, where a man gives his consent conditionally. The mortgagee says, "All right, I am willing for the property to be sold, provided you will pay the money to me." It opens the door for all kinds of questions

and all kinds of frauds, all kinds of uncertainty, when it can be so easily settled that where the man has mortgaged his crops, has mortgaged his mules and his cattle—of course, he has to keep this property in his possession, but before he can dispose of that property he must get the written consent of the man who has furnished him the money to make that crop or to buy those cattle. There is no trouble about it, no more trouble to get the written consent of the mortgagee than there is to get the written consent of the mortgagor or to get a bill of sale for the stuff you are buying. I think the automobile business can be taken care of in the same way as you take care of merchandise in a store, because that is really sold in the same way. It is on display for sale in a retail establishment, but I certainly think that the mortgagee is entitled to be protected and to require a written consent from him before the man's crops or his mules or his horses and his cattle can be sold. Otherwise your mortgage isn't worth the paper it is written on.

Mr. WILLISTON: Mr. Chairman, I hope the Committee will not be too weak-kneed. I should like to make just one further statement. The absolute owner of goods may orally, expressly or impliedly, make anybody his agent to sell his goods. That is law everywhere. It doesn't matter what class of property it belongs to. In regard to real property, many states have a statute that the authority of the agent must be in writing. Where there is no such statute, even in regard to real estate, an agent may be orally authorized to sell. Now, why should a mortgagee with his limited interest in property be protected by a requirement of a formality of writing, any more than the absolute owner of goods? This is simply a question of authorizing the mortgagor as agent or on behalf of the mortgagee to sell the goods. It gives him power to do it, and the fact that an agent in selling the goods of his principal defrauds the principal, does not enable the principal to get the goods back from the purchaser who has bought them, and in a case where the mortgagor is authorized to sell the goods by the mortgagee it similarly should have no effect on the rights of the purchaser that the mortgagor has defrauded the mortgagee.

Mr. BEERS: May I ask Professor Williston a question? Hasn't

it been found perfectly practicable in the case of real estate mortgages to protect the mortgagee, and aren't the losses through estoppel under similar circumstances to those instanced here as to personal property practically unknown?

Mr. WILLISTON: That is true and the reason is this, that in regard to real estate it is feasible, it is practicable, it is always done, the title is looked up in the registry of deeds. That is an ordinary course of business. In the nature of things, the recording of personal property and personal property liens can never be as satisfactory as in regard to real estate, partly because personal property does not stay put and partly because personal property, on account of a multitude of small transactions, is not dealt with in the same way and cannot be dealt with in the same way as to looking up titles.

Mr. RYALL: Unfortunately, I had to go through a lot of this automobile litigation involving that very question, and the perfectly good bank which I was representing is out some dividends. They had the mortgage; it was recorded, and somebody else purchased the cars, and Mr. Man put the money in his pocket and went to Canada. In an effort to recover the cars, we found, rather to our surprise, this great diversity of law on the subject. The matter seems to have gotten around to about a question of where this bank didn't say he could go and sell it but knew he operated in a place where he sold automobiles, and the court said to the jury they could infer from that, that that was a waiver, and a perfectly good jury inferred such. Now, that's what happened and what will happen, as I understand it, under Section 2.

Mr. LLEWELLYN: The act doesn't leave that to the jury.

Mr. RYALL: As a matter of law, this act as now written says that that very fact of consenting to a sale is for all practical purposes a surrender of the mortgage. I don't think we want to go that far. I think the most we ought to say is what the present law says, that from that action, the giving up of security and right of the purchaser to secure, good title may be implied. Our court in this case, with abundance of authority, said there was no estoppel. My bank had done nothing to mislead Mr. Purchaser. They just said nothing. There was no estoppel. It was a waiver which cast

the burden on the other man to prove it. I am trying to find out, and have ever since this section has been before us, to see any practical way whereby we can as far as possible carry the law of real estate mortgages into the chattel mortgage law, and say that Mr. Purchaser absolutely buys at his risk, the same as he buys a piece of real estate. We have got to differentiate between a small article of sale and a large article of sale which can be traced. I don't know how to do it. I have been trying to figure it out for 18 months, and I was wondering if in some way or other before we put this out to the public, we can't do that, because as it stands now it will meet with the most violent opposition from those men who are engaged in loaning money on automobiles.

Mr. BRONSON: Why not have it a general policy that if a written contract is worthy of having its sanctity in writing that its release ought to be likewise authorized in writing? Another observation to the Committee: in our state our big industry is grain, and a large part of it is subject to chattel mortgage, and that grain has to be sold with that mortgage on it. It has to go into an elevator, into a purchaser's hands or bailee's hands. The bailee becomes the purchaser subsequently and the mortgagor and the mortgagee have got to at some time agree for the sale of it, and in the meantime it is in the purchaser's hands. Now you can see the necessity, therefore, as far as our product is concerned, due to the fact that it is delivered to a purchaser, who for a time, may be the bailee, and also the fact that in our state the wholesale custom is not to force the mortgagor to sell on a low market but to give him opportunity to sell on a rising market, to say to Mr. Mortgagor, "You can sell whenever an opportunity comes but account to me, the mortgagee."

Moved and seconded that the Committee be instructed that a written consent by the mortgagee for a sale by the mortgagor should be required in all cases except mortgages of merchandise in stock.

A rising vote was then taken, resulting as follows; affirmative 25, negative 23.

CHAIRMAN: The motion is adopted.

Mr. HOGAN: Mr. Chairman, I now move the adoption of subsections 2 and 4 of Section 26.

The motion was put and carried.

Mr. HOGAN: I now move that sub-section 3 be recommitted to the Committee in order that we may make some changes there in line with the suggestions offered.

The motion was put and carried.

Mr. Hogan then read Sections 27, 28 and 29, which were adopted without objection.

Mr. Hogan then read Section 30, and moved its adoption.

Mr. WILLISTON: I should like to inquire whether supposing there is a mortgage of a stock of goods where the mortgagor is in effect given power to re-sell. He sells them as his own; he doesn't say, "These are mortgaged but I have authority to sell on behalf of the mortgagee." Wouldn't this section provide that he is in default because he doesn't say, "I am selling as a mortgagor with authority from the mortgagee?"

Mr. LLEWELLYN: It says if the mortgagor without consent of the mortgagee. Now I take it in the case you put, the consent of the mortgagee would be found.

Mr. WILLISTON: Yes, I think that covers it.

CHAIRMAN: If there is no objection, Section 30 will be adopted.

Mr. Hogan then read Sections 31 and 32, which were adopted without discussion.

Mr. Hogan then read Section 33, and moved its adoption.

Mr. AILSHIE: May I ask what is meant by the provision of subdivision 2 of Section 32, "Failure within ten days to redeem?" As I understand, in a sale of personal property by execution you would have to have possession of some property at the time of sale, and there is no right of redemption of personal property in many states—in any that I know of.

Mr. LLEWELLYN: Perhaps the word "redeem" is an improper word. What we are after is if the lien is not discharged, such as it is, for instance, by securing the release of an attachment, or in any other way freeing the goods from an execution lien, we felt the mortgagee should have the option of getting the goods sold free of everything and settling it all up in one sale.

Mr. SHELTON: I would like to ask the necessity of such an enormous forfeiture. Why 10%?

Mr. LLEWELLYN: It was picked largely with the idea that it was a small amount. Perhaps the way of curing that situation would be to have it 10% up to a certain figure, and a much less figure thereafter, so it wouldn't grow too big.

Mr. Hogan then read Section 34, which was adopted without discussion.

Mr. Hogan then read Section 35.

Mr. LLEWELLYN: There is a statement to make in reference to that section, and that is that two additional provisions, both short, will be incorporated at the next draft, one to take care of the issuance of serial obligations against one mortgage, and the other to take care of the rule incorporated in the Uniform Mortgage Act, the transfer to a bona fide purchaser of a negotiable instrument secured by a mortgage gives the instrument and the mortgage to the bona fide purchaser free of defenses. We want to make our act uniform with the Uniform Mortgage Act on those two points.

Mr. MARTIN: Mr. Chairman, under sub-section 2 of this section, it recites that the assignor shall be accountable to the assignee for any action thereafter taken with respect to the mortgage. May not the assignor of the mortgage state in his assignment that the assignment is made without recourse, and assuming he did, would this section prevent his doing so?

Mr. LLEWELLYN: We don't understand that the section would affect that situation at all, Mr. Martin.

Mr. MARTIN: Wouldn't it be wise to just simply state in there "unless otherwise provided in the assignment?"

Mr. LLEWELLYN: We would rather change the language in another way. The situation we have in mind here is a release by the original assignor of the mortgagor. It constantly happens, for instance, after assigning a mortgage the mortgagee accepts the goods in surrender of the mortgage and then sells them to somebody else.

Mr. MARTIN: If that is true it would be wise to require an assignment to be filed or recorded, as the case may be.

Mr. LLEWELLYN: We do, but even if it isn't filed, still he ought to be accountable to his assignee. Would your situation be met by inserting in the 5th line the words "by him" after next to the last word "taken."

Mr. HOGAN: With the suggestions made, I move the adoption of Section 35.

CHAIRMAN: If there is no objection, it will be adopted without motion.

Mr. Hogan then read Section 36, and moved its adoption.

CHAIRMAN: Without motion, if there is no objection, it will be adopted.

Mr. Hogan then read Section 37, Sub-section 1.

Mr. FREUND: Mr. Chairman, I don't quite understand that. Suppose he does not expressly provide, does he then waive future defaults?

Mr. Hogan then read sub-section 2, and moved the adoption of Section 37.

CHAIRMAN: If there is no objection, it will be adopted without motion.

Mr. Hogan then read Section 38.

Mr. BEERS: May I call the attention of the Committee to two or three points in this provision? I take it that the levies referred to are, first, an attachment, and second, generally speaking, an execution or something equivalent to an execution. Now the second paragraph provides for impounding by the court, so far as the attachment is concerned. In many states an attachment issues without an order of the court by a paper issued by the clerk of the court, or some magistrate. Now, suppose suit is to be brought to-day; the court is not in session; the very judge is probably away somewhere and it would be impracticable in those states where no court order is required to have the paper impounded. May I, therefore, suggest that the words be inserted "or deposited with the clerk?" Would that answer the purpose?

Mr. LLEWELLYN: Yes.

Mr. BEERS: Very well, so much for that. Now as to a case where in either attachment or execution the note has been lost,

and that will cover a very substantial percentage of the cases, should there not be a provision that if a note cannot be impounded or filed with the clerk, that security may be given?

Mr. LLEWELLYN: We are in full accord with that, but believe that to be so obviously one of the peculiar cases to be provided for by other rules of law that we didn't include it, any more than we did by constantly stating what every man could do by his agent. The case of a lost negotiable instrument is commonly treated as an abnormal case as affecting all rules on negotiable instruments.

The Committee rose, reported progress and asked leave to sit again which was granted.

It was announced that copies of the Uniform Mortgage Act, as amended, and of the Uniform Federal Tax Lien Registration Act, as amended, had been placed on the desks, preparatory to a vote on the acts.

The Conference adjourned.

MINUTES OF MEETING OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, HELD AT ANN ARBOR, MICHIGAN, SUNDAY, AUGUST 30, 1925.

The National Conference, at the invitation of the University of Michigan Law School and the Washtenaw County Bar Association, held a session at the Lawyers' Club at Ann Arbor.

The Conference drove to Ann Arbor as the guests of the Detroit Bar Association and met at the Lawyers' Club, where, after an inspection of the new Law School buildings, they were served with luncheon in the new dining hall of the Lawyers' Club.

The Conference was called to order by the President, who introduced Mr. Caveness, representing the Washtenaw County Bar Association, who welcomed the Conference and its guests on behalf of the local bar.

The President then introduced Senator Long, as Chairman of the Uniform Public Law Section, to respond to the address of welcome.

Professor Goddard of the University of Michigan Law Faculty then called for some announcements.

Mr. George B. Young was introduced as the President-elect, and made some remarks.

Dean Henry M. Bates, of the University of Michigan Law School, then spoke, telling of the initiation of the project for the law school buildings and the contribution which it was hoped to make to the promotion of legal learning in America, and expressed the hope that it might be an incentive to other large gifts to other institutions for similar purposes.

Mr. Crook, of Texas, then moved that an engrossed resolution be prepared in commemoration of the occasion and as a token of appreciation to the Michigan Law School for the opportunity of holding the session there.

The President then adjourned the session.

Eleventh Session

Monday, August 31, 1925, at 9:30 A. M.

PRESIDENT MACCHESNEY in the Chair.

Mr. Voorhees presented a Supplementary report for the Legislative Committee (see pp. 460-468 for this report).

Questions were raised by Mr. Evans and Mr. Rowland regarding the authority to commissioners to submit to slight amendments of Uniform Acts, in order to get them adopted, and other problems of cooperation with legislatures.

MR. VOORHEES: May I say one word further with regard to the subject matter of Commissioner Evans' remarks? I would deem it unwise to have the Conference place itself on record as approving by any formal action the action of Commissioners from a state in accepting from the legislature a uniform act with any alterations or amendments in it. However, the fact does remain that if you can get, and if all you can get is to get the act through with a few alterations or amendments, personally, speaking for myself only, I believe it is proper and wise for the Commissioners to take the act in that manner and endeavor as the result has shown in the several states can be done, to have the act later on, when your laws are re-codified or revised or by special act, made to conform to the Uniform Act in all respects.

May I say another word in regard to this subject, or rather, on the matter brought up by the Commissioner from Washington.

I dislike very much to say this, but I feel that in justice to many of the Commissioners I must say it. I feel personally, based on my experience as the Chairman of this Committee for the past four or five years, that the failure in many of the states to secure the adoption of more uniform acts is to be laid directly at the door of the Commissioners from those states. There are a goodly number of Commissioners in this Conference from states like Tennessee, Wisconsin, and others—we can look over the roll—take, for instance, the states in which ten or more acts have been adopted, and you will find that those Commissioners for the past fifteen or twenty years have been active. They have given a lot of personal time and attention to the work of securing the adoption in their states of the uniform acts. The result speaks for itself, and they have been successful. On the contrary, there are quite a number of states, I very much regret to say, in which this Committee has found it to be impossible to arouse the interest of the Commissioners in securing the adoption of uniform acts.

Now, Mr. President, if I may at this time bring up one further matter: the Executive Committee of the Conference has had under consideration during the past year the question of securing, if possible, more effective co-operation with the American Bar Association in the work of the Conference, more particularly, perhaps, in the work of securing the adoption of uniform acts by the state legislatures. This latter was considered by this Committee at its meeting in Chicago, and was again considered here last week. As a result the Executive Committee is of the unanimous opinion that the Conference should ask the Executive Committee of the American Bar Association to create in each state a Committee of the American Bar Association on Legislation, and that the duty of that Committee should be to cooperate with the Commissioners from each state in securing the adoption in each state of the uniform acts prepared and put out by the Conference and approved by the American Bar Association. The Committee is also of the opinion that in all cases where possible this Committee of the Association, if it be created, should be composed of members of the Association who are not Commissioners to this Conference; also that neither the Vice-President of the Association for the state nor the member of the General Council from the

state should be appointed to the Committee, and furthermore, and perhaps the most important, that each of those members of the Committee should in all cases where possible and feasible be residents of the state capitol, in order that they may be in a position without an undue expenditure of time on their part and without incurring the traveling expenses to be in attendance as occasion required before the Committees of the state legislature, the idea being, of course, to bring to bear on the legislatures through such a Committee the influence of the American Bar Association directly as distinguished from the influence of the Commissioners to this Conference. In line with that decision of the Executive Committee of the Conference, I have prepared a resolution which we trust the Conference will see fit to approve and adopt.

The resolution was then read (see p. 475 for this resolution), and adopted and ordered presented to the Executive Committee of the American Bar Association.

Judge Miller, Chairman of the Executive Committee, then made a statement regarding the finances of the Conference and the urgent need for effort on the part of the Commissioners to procure appropriations from their states and from bar associations. Commissioners responded by statements regarding their respective local situations. An endowment fund was started by pledges of the following amounts; Mr. McDougal, \$1,000; Mr. Hammond, \$500; Mr. Caton, \$500.

The Conference went into Committee of the Whole to consider the first tentative draft of the Uniform Trust Receipts Act, Mr. Crook in the chair.

Mr. LLEWELLYN: Gentlemen, the theory of the act is very simple; and the problem that it attempts to regulate is also not very complex. What we have got here, in substance, is growing up in the business world as a special type of financing that is really a special type of chattel mortgage in which it is understood that there has been new value given against the goods, against the security, and in which it is further and at the same time understood that the borrower intends himself to resell the goods and so meet the debt; that is, the security is essentially a merchandise security which both parties intend that the borrower shall resell in order to liqui-

date the debt. The typical transaction is the importing transaction, in which one of the seaboard banks advances the credit necessary to pay the seller and then when the goods arrive, turns them over to the buyer, the buyer having the privilege of using them and, perhaps, manufacturing them, and certainly reselling them, as long as he retires the bank's obligation at maturity. It is also understood, and under the present law inadvisedly, to cover the case where a bank holds pledged documents and then releases those documents for the borrower to dispose of them, and it seemed to the Committee wise that the same rules which protect the bank in the import transaction should also protect them where pledged documents are released for the necessary purpose of putting their disposition into the hands of the only party equipped to dispose of them.

One further thing should be said that applies to the act in general and that is this: it is universally understood among bankers that a trust receipt transaction differs from an ordinary chattel mortgage transaction in this respect, that the banker is trusting wholly and fully to the honesty of his borrower. What he is trying to get security against is insolvency, business trouble, that nobody has foreseen. He wishes to secure the financial risk. He is willing to trust the good faith of his borrower, and in the trust receipt transaction it seems to be admitted on all hands that it is a proper thing for the risk of the borrower's bad faith to be put upon the banker, and the act is drawn upon that principle, to give security against insolvency but no security against bad faith on the part of the borrower. Finally, the problem has become acute recently because of the increasing use of the trust receipt and because of the fact that hitherto the trust receipt has been valid, where valid at all, without any filing which would give notice to third parties of the facts, so that the support of trust receipt validity by the courts has often resulted in really misleading other creditors to their great prejudice, and it is proposed in the act to try to meet the needs of bankers by giving the borrower ten days within which to dispose of the goods or documents without filing. During that ten day period the trust receipt is valid without filing. It is thought that no great danger exists within ten days of the borrower assuming a fictitious financial status by virtue of having the

goods or document. After the ten day period, which seems to be sufficient for most purposes of temporary disposal, the act requires filing, along the same policy as the Chattel Mortgage Act and the Conditional Sales Act, and any other transaction which envisages a relatively permanent possession in a party who is not the full owner.

Mr. HARDIN: I will read the act, section by section, beginning on page 28 of this report.

Mr. Hardin then read Sections 1-5 which were approved without debate.

Mr. Hardin then read Section 6.

Mr. BAILEY: I would like to ask whether the "ten" might be in brackets. It might be in some states considered a little long. I only make the suggestion.

Mr. HINKLEY: Mr. Chairman, I hope the gentleman from Massachusetts will not press that suggestion, because I think a thing of that sort is a very important feature of the uniformity of the act. There is no substantial difference between a ten day limit in one place or in another. The transaction takes place and is consummated in the same city, and the question of long distances and sparsely settled communities doesn't enter into this, and I think it would be rather a pity if some states adopted five days and some thirty days. It would be a considerable advantage to banks to know that a trust receipt is good without filing in ten days in all the states that have adopted the act. That does not seem to me to be the kind of a provision that might be incorporated with a different time limit in different states.

Mr. Hardin then read Sections 7-15, to which there were no objections.

Mr. MARTIN: Referring back to sub-section 2 of Section 13, the last two lines, "and such refiling shall be filed, indexed, entered, and valid in like manner as an original filing" (then reading entire section). It doesn't say what effect the refiling of the trust receipt may have upon creditors that have obtained liens after the first filing and before the second.

Mr. HARGEST: I call the attention of the Committee to Section 8, running counter to the law of many of the states. When you say

"shall be punishable in like manner as embezzlement," you must say flatly that it is embezzlement, or if you are making a separate punishment for this effect, put it in. You can't write a criminal statute into this statute by reference in that way.

Mr. LEWIS: I would like to call the Committee's attention to Section 6, sub-paragraph 1, the last expression, "purchasers for value and without notice." My suggestion is that the word "knowledge" be there used. While, of course, the ordinary expression is purchaser for value without notice, and it would not be misunderstood, as a matter of fact, it has to be knowledge in every case under the decisions. There is one more slight suggestion, in Section 7, line 13, you use the words "But paragraph." I think you will find in other Uniform Acts the word "paragraph" is confined to the divisions of the section as a whole, while a dependent clause, as you have there, (a) and (b), dependent clauses are called clauses and not paragraphs.

Mr. OSMOND: In the definition, Section 2, of What Constitutes a Trust Receipt, there is nothing said there as to how much the amount involved in the transaction is, but I presume the trust receipt naturally would say that, but when we come to Section 15, beginning with line 8, there is a definition of "new value." Now, under the filing of the original trust receipt, I want to know what protection there would be to the public as to the amount that was still involved in the transaction.

Mr. LLEWELLYN: The new value referred to is value given at the time of the trust receipt transaction, and should, therefore, appear in the trust receipt.

Mr. ROSE: The first paragraph of Section 13, "The filing of a trust receipt shall be valid until thirty days after the maturity of the obligation secured thereby;" that's an entirely intelligible procedure, "but shall in no event be valid for a longer period than that prescribed for the filing of a chattel mortgage." Now in our state a chattel mortgage is good for a year, and those two provisions would seem to be inconsistent with one another.

Mr. LLEWELLYN: The theory on which the section is drawn is that the second section puts an outside limit, beyond which the first clause shall not operate. Suppose, for instance, that the in-

debtedness secured was to be due in 18 months. The first section would mean 18 months and 30 days validity. The second section says, no, it shall not extend beyond the local limit on validity of filing a chattel mortgage in your state, one year. Now, if the indebtedness is to mature in 60 days, the first section will limit the validity of the filing to 90 days, despite the chattel mortgage provision of your state.

Mr. HINKLEY: I should like to go back to Section 1 a moment, and I think, with the approval of the draftsman, that it might be well in line 14 of Section 1 to insert a brief reference to some other purposes for which the possession is given by the trust receipt, and I move that after the word "sale" in line 14 of Section 1 there be inserted the words "or for loading, unloading, storage or trans-shipment." The trust receipt is very frequently used for that purpose. Some goods come in on the railroad, and they must be unloaded from the cars and placed in storage, or they may be unloaded from the cars and trans-shipped in a steamer, or vice versa, unloaded from a steamer and trans-shipped in cars, and I think it would be just as well, although it might be covered by the following words, "or some purpose or purposes preliminary to or necessary to their sale," I think it would be well to insert in the section a specific reference to loading, unloading, storage and trans-shipment.

Mr. SCHNADER: May I go back to Section 13? In Pennsylvania there are no such things as chattel mortgages, and therefore, it would seem rather an unhappy expression, to say, "in no event be valid for a longer period than that prescribed for the filing of a chattel mortgage." "Chattel mortgage" would be regarded as meaningless with us.

Mr. Moss: I don't understand very well the language of that Section 1. Does it mean that the trust receipt when filed should constitute notice for the period of 30 days?

Mr. LEWELLYN: It is supposed to mean that it should constitute notice or be equivalent to notice until 30 days after maturity of the obligation described in the trust receipt.

The Committee then rose, reported progress and requested that the Uniform Trust Receipts Act be recommitted to the Com-

mittee for further consideration. The Conference approved the request.

The Conference then went into a Committee of the Whole to consider the Uniform Act to regulate the Sale and Possession of Firearms, Mr. Seth in the chair.

Mr. IMLAY: Mr. Chairman and Gentlemen of the Conference: The subject of the regulation of firearms, of course, is not a new subject. The matter, however, was first brought to the attention of this Conference, so far as we know, at the meeting in Minneapolis, and it was brought to the attention of the Conference in connection with a movement to secure uniformity in legislation on the subject of firearms which had already been started. It had been started by the National Revolver Association, which is an association of amateur marksmen, non-mercenary, a voluntary association, without any connection whatsoever, I may say, with any manufacturing interest or with any other selfish interest.

We have with us, and we have had with us from the outset in our consideration of this matter, Mr. Karl Frederick, of New York City, who is one of the Vice-Presidents of the National Revolver Association, and who, in addition to a technical skill of a high order and of international fame in connection with the use of firearms, was one of the members of the original legislative committee of the National Revolver Association which formulated the act which we have called in our report briefly the Revolver Act. That Revolver Act was printed in our report of last year and it is reprinted in one of the appendices of this report. At the time the matter was brought to our attention that act had already been adopted with some modifications and amplifications by California and by New Hampshire and by North Dakota, and in the rather fruitful period of legislation in the two years that have elapsed we find that this act has been adopted almost verbatim in the State of Indiana, and that traces of it are found in other recent legislation; for example, in Nevada and in an act in this state, which has gone into effect since we have met here last Tuesday, an act of May 26th. I say that traces of it are found, because the Michigan act indicates one of the radical departures from ordinary legislation along this subject, and one of the radical departures from our recommendations.

Now, having before us the result of some years of experience and research, the work of a disinterested legislative committee of a disinterested organization, we suggested in the preliminary report in Philadelphia last year, which was a mere report of progress, that we take the Revolver Act as a model, and with that act as a model, after careful deliberation by your Committee in Chicago, after certain subtractions, the omission of one section in particular to which your attention will be called, after various changes we have presented herewith a first tentative draft which follows closely this model but which contains the changes which are pointed out specifically in the text of the report, and subsequent changes which the Committee, working with Mr. Frederick here in the last week, have seen fit to recommend in the text as printed.

Now let me say this, by way of indicating that there is nothing new in this act, there is nothing startling and in spite of its title there is nothing harmful, because this tentative law and the model upon which it is drawn are based upon the prevailing view of firearms legislation, and it contains no radical departure from that view. Now the prevailing view in firearms legislation, which we have found from an examination of every law, I should say, in this country, the prevailing view is to regulate those firearms which are capable of being concealed upon the person, that is, the kind of weapon that can be concealed. So far as a regulation of other kinds of weapons is concerned, those laws are sporadic. There may be found here and there some regulation requiring a rifle to be covered when it is carried in the street, but ordinarily the firearms legislation does not seek to regulate that kind of weapon.

I will call your attention, for example, to the first section, in which you will note that the definition is a weapon with a barrel less than twelve inches in length. We have adopted also the prevailing view that the proper form of regulation is not such a regulation as will prevent the private citizen from being properly armed with a proper weapon. We have attempted by these sections that have to do with the prevention of transfers, either by gift, loan or sale to felons and other undesirable persons, to prevent the transfer in any way of a weapon to a person who should not have it, but we have abstained from a form of legislation which is

seen in some recent enactments which has for its purpose the requirement of a license to possess.

Now on that point I might point out that there has been for some years in the State of New York a law which requires a person to have a license to possess a firearm of this type. A careful study of that provision, I think, will convince the members of the Conference, as it has convinced the members of its committee, that any form of a license to possess will hurt the person that should possess and will be ineffective so far as the person is concerned who ought not to possess the weapon. In order, however, that you might have before you this view of firearms regulation, we have printed separately and had distributed a supplemental report, in which you will find the so-called Sullivan Law of New York printed in full.

Another attempt at that kind of regulation was recently tried in Arkansas. In Arkansas, by the Act of 1923, it was required that everybody in the state possessing a firearm of this type should appear and have it registered. That law, we understand by telegraphic advice, which we have been unable to confirm, has been repealed, and that statement is made subject to verification. Such a law has existed for some time in Oregon, according to the summary in our text, and the only other example of such a law that we have found is contained in the Michigan act which went into effect last Thursday in this state. That Michigan act, passed on May 26th, requires that everybody owning a weapon of this sort shall appear and shall register it. We have thought best to adopt the prevailing form of regulation, representing what is a form of regulation which we might hope to have uniform, and to present to this body a law in which the method of regulation shall be a method sought not to disarm the citizen that needs arms but to disarm the one that should not have arms, and then there are several sporadic methods of regulation which have never found any ground whatsoever. There was one method of regulation attempted in the so-called Shields Bill before the Senate of the United States in 1921. There the attempt was made to limit the kind of pistols and revolvers that might be used, the weapons of certain makes, certain designs, certain manufacture, but that

failed of passage, and so far as we know no regulation of that kind has ever been attempted elsewhere.

Mr. Imlay then read Section 1.

Mr. IMLAY: I will read Section 2 with the changes which the Committee has recommended, and you may follow the changes according to the text:

"Section 2. Committing Crime when Armed. If any person shall commit or attempt to commit a crime of violence against the person or property of another" (a crime of violence against the person or property of another is substituted for felony) "when armed with a pistol or revolver, and having no permit to carry the same, he shall" (instead of "may") "in addition to the punishment provided for the crime, be punished by imprisonment for not less than one nor more than five years."

The substitution of the expression "crime of violence against the person or property of another" was made by the Committee to obviate the objection that there may be certain crimes which are felonies but which are so unrelated to the carrying of a weapon as to make this provision somewhat irrelevant. If, for example, a man commits perjury and has a pistol in his pocket at the time he commits perjury, it may be a little illogical to have a mandatory provision assessing a higher penalty.

Now with reference to the change from "may" to "shall," the Revolver Act, as you will note in the appendix, uses the word "shall." Your Committee seemed to think that the word "may" might be better, leaving it to the discretion of the court, but on further consideration your Committee recommends that the additional penalty be mandatory, and that it applies in a case where the offense with which the man is charged is the kind of offense for which he will need a pistol.

Mr. HARGEST: From experience I think it is very unwise to tie the hands of the court, by requiring it to send a person to jail. Suppose there were half a dozen persons, one of them a boy of 17 who had never been in any trouble of any kind before, and under some bad ring-leader the others of the crowd committed a crime of violence. He happened to have the pistol in his pocket but took no part in the crime; he would be guilty because he was acting in

concert with them, yet that boy of 17 would have to be sent to prison. I oppose taking away the discretion of the court. I move to strike out "shall" and insert "may."

Mr. ROWLAND: I suggest that the courts now have ample opportunity to protect juveniles under the suspended sentence law of the various states. This should not be changed. I think it should be left.

Mr. IMLAY: Mr. Chairman, I would like to have Mr. Frederick address the Conference and tell us the purpose of this section in the original revolver law.

Mr. FREDERICK: Gentlemen, I happen to have had a considerable hand in drafting the act as it was originally drafted by the United States Revolver Association. We looked somewhat into the history of pistol legislation in England, where it is rather unusual to find crimes of violence committed by persons who are armed. The use of a gun by a burglar or highwayman in England is somewhat unusual. In fact, it is so unusual as to have attracted distinct notice of the discussion of this subject. We looked a little farther to find out why that was the case, and we apparently found the answer in a provision that a person in England committing a crime of violence when armed received by a mandatory provision an additional sentence, and that the result of that had been to a very large extent to eliminate pistols and revolvers from the hands of criminals when they were busy upon these crimes of violence. We concluded that it was about the same thing to give the court additional discretion to impose an additional period of time, because we wanted it to come very pointedly to the attention of the criminal fraternity that the commission of a crime when armed in itself was a more serious offense than the commission of a crime when unarmed, and thereby, insofar as it was possible, to persuade them to abandon the use of dangerous weapons when they undertook these criminal excursions. The mandatory provision is one that we have given a good deal of study to and it has a genuine historical foundation, which we believe has shown its very decided advantage.

Mr. SIMS: Mr. Chairman, I would like to call the attention of Judge Hargest to the fact that we put the type of punishment in

brackets. The intention of the Committee, as we understand it, following out Mr. Frederick's views, was not necessarily to impose imprisonment or imprisonment for any definite time, but we have added a sentence which must be applied on condition a person is found having a revolver in his possession.

Mr. MARTIN: The question suggested itself to my mind, and I merely suggest it to the Committee, does this constitute an additional act or an additional crime, the carrying of firearms?

Mr. IMLAY: The Committee feels very strongly, as has been already expressed, that the sentence should be mandatory, that the punishment should be sufficiently flexible to take care of the situation, and the Committee would like to leave the matter of probation and suspended sentence where the local law leaves it on that subject.

Mr. GREENOUGH: I seconded the motion of Judge Hargest in regard to retaining the word "may" in this section simply because for a great many years I have had experience in prosecuting criminal cases both in the lower courts and the upper courts, and it has been my universal experience that we get better results in the prosecution and punishment of criminals if the court is given a wide discretion.

Mr. BEERS: May I call the attention of the Commissioners to the fact that the crime has been very much broadened from the crime as stated in Section 2. It now refers to any crime against "the person or property of another." I don't know what the construction of the courts has been about that, but it does seem to me broad enough to include the case of where one man or boy or where one old man attacks another with his fist he is committing an assault, which is a crime. Now to make a matter of that kind, where a person gets mad and starts to punch somebody, to make that necessarily a states prison offense because, although it may be entirely disconnected with the attack, a man happens to have a pistol in his pocket, would seem to lead to great injustice in individual cases.

Mr. CLEVINGER: I believe it would be better in a case of this kind, where the real danger in this country now grows out of boys carrying pistols—there is more disposition to violate the law along

that line by young people 13, 14, 15 and 16 years old than any other one thing I know of, and I believe they will be stopped quicker if the courts were compelled to put sentence over them and then put them on probation, on good behavior, than any other way. This is one crime that needs special attention. If there is any one crime where the court ought to put sentence over a person it is over a lot of young people who are carrying pistols; they ought to be put on probation to compel them to behave themselves or suffer punishment.

CHAIRMAN: The matter before the Conference is on Mr. Curley's substitute, to insert the words after "person" at the end of the 1st line "over the age of — years," and to change the word "may" at the end of the 3rd line to "shall." All in favor of the substitute signify by saying "Aye." Opposed "No." The "No's" have it. Now we will refer to the motion of Judge Hargest, that the word "shall" in the Committee amendment of this section be changed to the word "may," to make the section in this respect read as printed. All in favor of that motion signify by saying "Aye." Opposed "No." The "Ayes" seem to have it; the "Ayes" have it and the motion prevails.

Mr. ROSE: The section would be very much improved if you would make it read as follows: "If any person shall commit or attempt to commit a crime of violence and shall use therein a pistol or revolver, he shall, in addition to the punishment provided for the crime, be punished by imprisonment for not less than one nor more than five years." As it is now a man may carry a pistol if he has a permit, and he may use that pistol in the attempt to commit crime or in the crime and yet have immunity.

The Committee then rose, reported progress, and asked leave to sit again, which was granted.

The Uniform Real Property Mortgage Act was called up for final consideration by the Conference.

Mr. CHILD: Mr. President, I wish the unanimous consent of the Conference to make three verbal changes in the printed changes that have been distributed on the desks. No one of them changes the meaning of what we have. I ask, that the record may show what those changes are, to add "or both" to the definition of

"Mortgagee," being the fourth section from the last on page 1 of the distributed act. I ask that in order to clarify the meaning that we may strike out "have been or" in the 5th line of Section 3, and also to strike out "during the receivership thereof" in the 3rd line from the last. That makes no change but rather perfects and clarifies the meaning in accordance with the vote of the Conference. I ask that in Section 26 we may perfect what we understand to be already the meaning but from which an ambiguity arises as to whether the senior lien is the senior lien of record or the senior lien in fact, and I ask that we may clarify that section by striking "senior" from the 2nd line of Section 26 and insert after "lien" the following words "senior in record or in entry," and then in the 7th line after "according to" insert "such." I ask unanimous consent that these clarifying changes be made.

The motion was put and carried.

Mr. CHILD: Mr. President, I now move that the act be placed upon final passage, and that it be

Resolved, By the National Conference of Commissioners on Uniform State Laws at its Thirty-fifth Annual Conference held at Detroit, Michigan, August 25-31, 1925, that the Uniform Mortgage Act be and the same is hereby approved and adopted as a uniform act and that the same is now recommended for enactment by the legislatures of the several states, territories and insular possessions of the United States and the District of Columbia, and that it be reported to the American Bar Association for its approval.

Mr. MARTIN: Mr. Chairman, in the discussion of this Uniform Mortgage Act there has been a great diversity of opinion expressed by the members of this Conference. On one motion that was made I think there were 13 states voted against the plan as outlined in the act. Upon another proposition I think the vote was a tie, was it not, 19 to 19? It's apparent that there is not that uniformity behind this act that there should be. If we expect to recommend to the states of this union the adoption of a uniform law, we must at least have some uniformity among ourselves. That uniformity, indeed, has been absent in the discussion of this act. Not only that, but the act itself proceeds upon a plan that

is entirely antagonistic to the jurisprudence of a great many of the states. I suggest, in view of that condition, without rehashing the reasons that have been heretofore given, that there are ways in which this act can be made workable in those other states by the adoption of a different theory upon which that act may proceed. Under those circumstances, I want to substitute for the resolution offered, Mr. Chairman, a motion that this matter be referred back to the Committee with instructions to draw that kind and character of an act.

Seconded.

PRESIDENT MACCHESNEY: The Chair rules that the motion of the gentleman from West Virginia follows as a substitute the action of the Conference instructing a roll call, and, therefore, it is an attempt by indirection to reverse the action of this Conference and should be in the nature of a motion to reconsider. The Chair thinks we have progressed beyond that point, namely, we not only considered the bill in the Committee of the Whole and in the Conference, but we have considered the amendments in the Conference and ordered them printed, and have set a special order of business directing the roll be called at this hour. Now, unless the Chair is further advised, he would hold that it has gone beyond the third reading and that we are now on the special order of business on the roll call under the direction of the Conference itself.

Secretary Bogert then called the roll as follows:

<i>Yes</i>	Vermont
Connecticut	Wisconsin
District of Columbia	<i>Total: 14</i>
Illinois	
Massachusetts	<i>No</i>
Michigan	Alabama
Minnesota	Arizona
Missouri	Arkansas
New York	Colorado
North Dakota	Florida
Ohio	Georgia
Tennessee	Idaho
Utah	Indiana

<i>No</i>	Rhode Island
Iowa	Texas
Kansas	West Virginia
Louisiana	Wyoming
Maryland	<i>Total: 19</i>
Mississippi	
New Mexico	<i>Divided:</i>
Pennsylvania	Virginia

PRESIDENT MACCHESNEY: Under the rules the act must receive a majority of the votes upon the question, and more than twenty states. The act has, therefore, failed of adoption.

Mr. MILLER: We have had this matter before us for years. We have never agreed with the Committee, that is, I think the majority have never agreed with the Committee. The matter has cost us an immense amount of money, and I take it that the proper action now is to discharge the Committee, and I move you that the Committee on Mortgages be discharged and that there be no provision for a Committee on Mortgages for the ensuing year.

PRESIDENT MACCHESNEY: The question is called for. As many as favor that motion will signify by saying "Aye." (21 responses.) Those opposed to the discharge of the Committee please rise (14 responses). The motion is carried and the Committee is discharged.

I will ask the unanimous permission of the Conference, notwithstanding the hour of adjournment has passed, to recognize the gentleman from Ohio.

Mr. SHOEMAKER: I have been requested to make a motion that the Conference reconsider the action taken in regard to the Written Obligations Act. Personally, I voted to adopt it. I shall vote again to adopt it, but it is necessary for a member who has voted in favor to move for its reconsideration. In accordance with that request made upon me personally, I therefore so move you, sir.

PRESIDENT MACCHESNEY: Gentlemen, you have heard the motion that the Conference do reconsider the Uniform Written Obligations Act, with the understanding, as I understand it, that if that motion is carried that the matter will be called up at a convenient hour this afternoon.

Secretary Bogert then called the roll with the following result

<i>Yes</i>	Texas
Alabama	Utah
Arkansas	Vermont
Connecticut	Virginia
District of Columbia	West Virginia
Florida	Wyoming
Georgia	<i>Total: 25</i>
Idaho	<i>No</i>
Illinois	Arizona
Iowa	California
Louisiana	Colorado
Michigan	Indiana
Minnesota	Kansas
Mississippi	Maryland
Missouri	Massachusetts
New York	New Mexico
North Dakota	Pennsylvania
Ohio	Rhode Island
Oklahoma	Wisconsin
Tennessee	<i>Total: 11</i>

PRESIDENT MACCHESNEY: The motion to reconsider having received the requisite number of votes, the Conference will reconsider the act at a place upon the program to be fixed this afternoon. There being no further business to come up at this hour, the Conference stands adjourned until 2 o'clock this afternoon.

Twelfth Session

Monday, August 31, 1925, 2 P. M.

President MacChesney in the chair.

On motion of Mr. Hogan the Uniform Chattel Mortgage Act was referred to the committee for further consideration.

On motion of Mr. Clephane the Uniform Act concerning One Day's rest in Seven was referred back to the Committee for further consideration.

Mr. Hargest submitted a supplemental report for the Committee on Scope and Program (see p. 456 for this report).

This report was then approved.

President-elect Young made announcements regarding the new Committee appointments.

Mr. Miller reported regarding meetings of the Executive Committee on August 29th at 11 P. M. and on August 30th at 10 P. M. The action of the committee at these two meetings was approved.

PRESIDENT MACCHESNEY: The chair will recognize Mr. Hollingsworth of Utah, Chairman of the Narcotic Drug Act Committee.

MR. HOLLINGSWORTH: Mr. Chairman, the Committee appointed to draft a Uniform Drug Act has not had a session during the year. Certain members of the Committee had a short conference at Chicago in February. Judge Avery, of the Committee, is not here. Mr. Davis, of Washington, was not active, Mr. Corthell, of Wyoming, has resigned, and Judge Wolfe, of Porto Rico, has not been available. The Chairman of the Committee undertook the preparation of a first tentative draft, and did so having in mind the New York Act, the Federal Act and an act passed by the Legislature of the State of Washington, and a proposed act that was before the last legislature in New York. Since the first tentative draft has been printed, we have received some very valuable suggestions from the American Medical Association through its Bureau of Legal Medicine and Legislation, of which Dr. Woodward, of Chicago, is Chairman. In view of the criticism of the act and an appreciation by the Committee that it can be much improved upon, and realizing that we are near the end of our Conference for this year, for the Committee I have to suggest that the act be not read but be re-committed to the Committee.

There being no discussion, the motion was put and carried.

MR. HOLLINGSWORTH: In connection with that matter, may I ask that the name of the Committee be changed and that the supposed act be changed to Uniform Narcotic Drugs Act, which is the name that has been suggested by the Medical Association.

The motion to change the name of the Committee and Act to the Uniform Narcotic Drugs Act was then put and carried.

Mr. BOGERT: I would like to bring up at this time the motion of Mr. Freund, of Illinois, which he made last week with reference to the bracketing of Sections 2 and 3 of the Uniform State Law for Aeronautics. Unfortunately, Dr. Freund has been obliged to return to his home. The matter was set down for Monday, to-day, and I would like to get it disposed of. As I think you know, I am opposed to the motion. I am Chairman of the Committee which considered the subject of the necessity of amending this act. Dr. Freund's motion is not that the act be amended exactly, or that any sections be omitted, but that these two sections be bracketed and considered in the future as optional sections. Now I think that would be unfortunate. It seems to me that when the Conference has approved an act after thorough discussion—this act was discussed for two years and the Conference has considered definitely the subject matter of Sections 2 and 3 and decided that that subject matter ought to be included in the act—it is very unfortunate to go back three years later, simply on the ground that these sections are not necessary and bracket the sections. The objection of Dr. Freund is not that these sections are vicious or especially undesirable, but that he thinks they are unnecessary, and that if he were drafting the act, looking at it from the point of view of the Committee on Legislative Drafting, he would have omitted these sections as not of great importance and as not desirable. It seems to me that our labors must have some stability and we must have some kind of a doctrine of *res adjudicata* in this Conference. While it is true that there may be rare occasions when an act needs amendment, we should do it only in an exceptional case, and I do not believe a case of mere objection, on the ground that these sections are not very important, is sufficient to justify the mutilation of an act which has been already adopted with these sections in it in ten states. It will result in diversity, because the ten states will have Sections 2 and 3 and any succeeding states adopting the uniform act may or may not have Sections 2 and 3. I would suggest that it would be expedient to vote this motion down, and simply have a general understanding on the part of the Commissioners that Sections 2 and 3 are the least important sections in the act and that if they meet with objection in their legislatures, on the ground of either one or both

of these sections, they may use their own judgment as to the omission of the sections, and not have any general motion bracketing the sections.

Mr. WASHINGTON: Mr. Chairman and Gentlemen of the Conference: I am very much opposed to this question of bracketing. Tennessee is one of the states which has already adopted this act, and I would feel very much crestfallen and very much ashamed to go formally before any succeeding legislature and confess that two of the sections of that act were unimportant. I hope that this question of bracketing will be eliminated, and I, therefore, move, Mr. Chairman, if I can get a second, that the question of brackets be eliminated.

Mr. HINKLEY: Mr. President, I am one of the members of the Committee. I think that it would be more courteous, perhaps, to Dr. Freund if we pass this over until another year and give him an opportunity of saying what he has to say. Personally, I am very well convinced that the two sections in question have a distinct value and that the strained technical construction of Section 3, which would undertake to limit for all time the other rights that may be possessed in space, will not prevail. At the same time I hesitate a little about voting down a resolution that emanates from so distinguished a member as Dr. Freund, who has evidently given careful consideration to the matter, and I really think, although I feel myself that the text is right as it stands, I think we ought to give him his day in court, and if it meets with Col. Bogert's approval I would move that the discussion of this question be postponed till next year.

Mr. BOGERT: I appreciate the delicacy of the situation. This Committee was, however, appointed to consider this subject, and this practically blocks the further consideration of the Aeronautics Act until this question is disposed of, and I do not think that Dr. Freund has any very strong personal feeling about it. I talked to him about the matter. He simply feels that, as a matter of legislative drafting, these sections had better have been left out in the first place. He did explain his reasons the other day to a session of the Conference, which was rather largely attended, and, personally, I would like to see the matter disposed of now.

Mr. HINKLEY: I withdraw my motion.

PRESIDENT MACCHESNEY: The motion to postpone is withdrawn, with the consent of the seconder. The motion now recurs upon the motion of Dr. Freund to bracket the 2nd and 3rd sections of the Uniform Aeronautics Act, which has heretofore been adopted by this Conference and has been passed in ten states. As many as favor the bracketing of those sections signify by saying "Aye." Opposed "No." The motion is lost.

The Conference then took up the reconsideration of the Uniform Written Obligations Act and Mr. Hinkley moved that the formal approval by the Conference be repeated.

Mr. WILLISTON: I shall be very brief in what I have to say. The obvious purpose of the proposed statute is to enable a person to make a binding promise or to make a binding release without consideration. When he manifests that he understands what he is doing by making a separate statement in the promise in writing that he intends to be legally bound. Now, I do not do this in opposition to the doctrine of consideration. I believe in the doctrine of consideration. There are a considerable number of men teaching law who denounce the doctrine of consideration with all their force. Wherever they get a chance to hit it, they hit it, for instance, Dean Pound of Harvard and Professor Corbin of Yale. I am not of that school. I believe in the doctrine but it seems to me it ought also to be possible that if a man makes a promise, knowing that it is gratuitous, and, nevertheless, purposes to have it legally binding, he shall have it so. I think that is so for this, among other reasons, that only in that way can the doctrine of consideration be preserved as an exact and reasonable doctrine, for whether you like it or not there are promises which courts are going to enforce though there is no bargain or exchange for them. Those cases are the exception, and this act is proposed to deal with exceptional cases, and whether it is passed or not the law of consideration will govern the ordinary transactions between man and man. I confess that it has been a great surprise to me, the manifestation of hostility in some quarters to this little act, which seems to me highly reasonable and to remedy a defect in some states where it is not even clear that it is possible to make a release

of an obligation without making some exchange for the release. There are, of course, numerous cases where a person wishes to forgive a debtor, where all claims are desired to be released. To make that impossible, without some agreed bargain or exchange, is something that is unfortunate and that courts are unwilling to stand for. In this state where we are standing, for instance, they strain the common law and hold the thing binding in writing without any consideration and without any statement that the person intends to be legally bound. This, of course, is in effect a substitute for the common law doctrine of seals, so far as consideration is concerned, without the technicality of seals and without the objection which is always attached to the common law rule in regard to sealed instruments, that they could not be varied or changed without an instrument of equal dignity.

Mr. BEERS: Mr. Chairman and Gentlemen of the Commission: I don't wish to re-argue this on the merits except very briefly, but in view, particularly of the fact that gentlemen have come in since the vote was taken and that other gentlemen were absent when the vote was taken, I want to state very briefly the position of those of us who are opposed to this form of legislation. The act is very brief, and let me read it (reading). It unites, you observe, two things. First, the principle that a release may be made where no part of a debt is paid. We have nothing to do with that; we have no objection to that, that point in itself. The second is that it has to do with voluntary contributions and with options. It may be that some amendment of our law is necessary in those respects, but we say that this establishes a principle which is very broad and fundamentally unsound, and we have, some of us, concocted this to show what it does, and the fact that it brings about that result has not been disputed, and this is the instance that we have noted:

“Abigail and John agree as follows:—

Abigail promises to work for John as household servant for two years for nothing and at the end of two years, she promises to give him out of her past savings the sum of \$500. Abigail intends to be legally bound.

Abigail.

John.”

Now, it seems to us that that agreement is an instrument of overreaching and oppression; that it loses sight of the fundamental principle that a contract requires a mutuality, a consideration, and that no law should be passed which could bring about this result. The answer to this is that in some states you can bring it about now by the use of a seal. We say that if that's the case, the correction is needed in that law and not in giving to a form of words the unfair, fictitious effect that is now attributed to a seal.

Now, gentlemen, forget all this for the moment and suppose that we are wrong. We all know that the cases we lose are the certain cases and that the things that frequently are not so are the things we are sure of, and that there is a good deal of merit in the position of the Justice of the Peace in Vermont who said, "You can appeal if I am wrong, and I generally am." Now, assume I am entirely wrong, and assume my friend from North Dakota is right in saying that this evidences an uplift and that it is of great moral significance; assume we are wrong and assume that in changing this law, those of you gentlemen who want it changed, are right, but this law, gentlemen, must go to the legislatures and the legislatures will judge not merely this law but they will judge us. We will run into pre-conceived notions, right or wrong, and we will take all kinds of discredit from, under the guise of trying to make the existing law uniform, trying to pass a new law, be it an uplift or not. We, therefore, ask you gentlemen who have, with very great courtesy and with great chivalry, given us a second opportunity to be heard, we ask you to consider very carefully as to whether, if you are dead wrong and we are dead right, as to whether it is wise in the interest of this Conference to run counter to the opinions of legislatures all over the states and in a matter which they can understand, it isn't disguised in some other connection, place the act on trial and us on trial and discredit us both.

Mr. HART: Mr. Chairman, I would like to ask Prof. Williston a question. What would be the form of language connected with making a promissory note without consideration?

Mr. WILLISTON: "It is intended that this note shall be legally binding."

Mr. HART: "I promise to pay" wouldn't be sufficient?

Mr. WILLISTON: While I am on my feet I should like to say one word further in regard to the matter that has been suggested by my brother Beers' remarks, that is, that this proposed act has nothing to do with the law of fraud, duress, oppression or failure of consideration. Mr. Beers neglected, by inadvertence, to say one thing further in regard to the answer that was made to the Abigail case. If it be supposed, in the case that he put, that Abigail was not insane, that there was no fraud or no oppression, then the contract can be made as he suggested. It can be made in any state in this country on the same supposition, if John agrees to give a book, or any other trifle, to Abigail in exchange for her promise. Now I say it is better to have the form that is suggested by this act than the technical formality of a seal or the trifling formality of going through an exchange, if you want to do it.

Mr. SIMS: May I ask a question, Professor? Do you think, in the long run, the courts will lay any special importance upon the emphasis which you provide under the statute, that "I intend when I sign this to do it?" Don't you think, in the long run, the courts will hold that any emphatic statement, whether repeated or not, is equivalent to an additional expression of intention?

Mr. WILLISTON: I can't see any way in which we can very well make it clearer that an additional statement is required than we have done at the expense of slight tautology. The act as drawn contains the requirement that there must be also an additional express statement.

Mr. AILSHIE: Does this additional statement you provide for really afford an additional protection? In other words, will not the printed forms of subscription lists and of all kinds of documents contain that just the same as they do the other parts of the contract, and will it not be just as easy to sign that as for you and I to sign the ordinary printed form of a telegraph blank and of an insurance application and the hundreds of other contracts that we get.

Mr. WILLISTON: The printed form of subscription papers in most states now contain something like this: "In consideration of the promise of other subscribers, I hereby promise to pay One

Thousand or One Hundred Dollars." Now how far a person who signs that knows that the consequence of it is to make him legally bound, even if he reads it, is open to argument. If he doesn't read it, of course, he doesn't know it. If the method proposed is adopted then, at least, if he has the sense to read what he signs he cannot fail to know what it means.

Mr. CURLEY: Mr. Chairman, if I may ask a question. If I should give my promissory note for, say \$1,000, for what I believe is a good consideration, containing the language that "I intend to be bound by it," and it afterwards developed that I was mistaken about that, I am forever precluded from raising that question?

Mr. WILLISTON: You are not. The doctrine of failure of consideration is something entirely different from the doctrine of lack of consideration.

Mr. CURLEY: I am not talking about failure of consideration. There was lack of consideration all the time, but I didn't know it.

Mr. WILLISTON: That is, you signed it under a mistake?

Mr. CURLEY: I signed it under a mistake. I thought there was a consideration. There was a lack of consideration.

Mr. WILLISTON: If you can put a concrete case. I find it hard to imagine—(interrupted).

Mr. CURLEY: Let us take, for example, a number of law suits that we have pending down in my state at the present time. A lot of fellows went into an irrigation project, and the contracts all provided, "We have made a very thorough investigation of conditions, examined the water possibilities and irrigation possibilities. We are not deceived in the matter. We sign this of our own volition thoroughly satisfied with the whole condition." Now, it develops that in a project embracing about 30,000 acres that there isn't sufficient water for over 10,000 acres. Now, the consideration for those gentlemen signing those notes and agreements was the belief at the time that there was 30,000 acres of irrigable land there that was subject to irrigation. Would the placing of the words specified in the act in that contract inhibit them from pleading a want of consideration in suits upon those notes?

Mr. WILLISTON: As far as I can make out, there is a mutual

mistake of fact in regard to the situation. That would be a defense with this or without it. I find it quite difficult to imagine the case you suppose, without supposing that there was some consideration. The existence of the water wasn't a consideration; it was the basis of a belief on which the parties entered into the transaction. If I give my promissory note I give it in return for the promise to give stock or bonds or something—I am to get some property interest.

MR. CURLEY: You must remember that that land is absolutely worthless without water.

MR. WILLISTON: I do remember it, but if I were the Judge you would have to defend that case on the law as it stands on the ground of mutual mistake of fact. I trust that you will put your defense on the basis of mutual mistake of fact, and if you have been promised stock in such a proposition that you will not put it on the ground that there has been no technical consideration.

MR. CURLEY: We are compelled to put it on the ground that there has been no consideration.

MR. DIXON: Where an uncle, having considerable money but not willing to part with it at present, agreed to give a nephew a \$5,000 note, due in five years from date, and when that note fell due the old man found his property was not really what he thought it was worth, and, as a matter of fact, paying \$5,000 would impoverish him, would it not be true that if he had signed a note stating that he intends to be legally bound, he would have to pay it, notwithstanding that there was no consideration?

MR. WILLISTON: It would, and I think by all the heavens it ought to be. Suppose the nephew has taken steps, as a reasonable nephew would be justified in taking on the supposition that his uncle was going to keep his word, and the nephew is thereupon put in a hole because the old man, we will suppose, by this time feels a little stingier than he did five years before.

MR. CROOK: The Committee does not take issue on the fact that this is a novelty; they have imported a novelty, attempting to have this Conference go out and offer it to the legal profession of the country as a substitute for a common law decision. I think it would make a much better impression upon the lawyers of the

country to ask that the law be made uniform by restoring the seal in the states where the common law seal is abolished. Here we come in and take the anomalous position that we promise to pay and we intend this promise shall be binding. If it didn't emanate from such an eminent authority you would almost doubt that a man would propose a law that would say a thing twice in a few words. The fact that it is novel, the fact that it is new, the fact that it is accomplishing no purpose other, as I see it, than the restoration of common law seals, in effect, is sufficient, but a distinguished lawyer—he is not a member of the Conference—said he had just concluded litigation in which \$1,000,000 had been given to charity, and he says, "If I understand that act, it would have opened the gate for fraud in this contest which has been continuing several years for the defeat of this charitable bequest." He says that Dr. Williston has cautioned us that fraud, duress, etc., are not included in this, but we are unsettled in doctrines. We can't tell how far it will go. We must lay a general hand upon the law as established upon precedents, and the very fact of its novelty is dangerous. If this promise to pay should be made by a man in a hospital who is desperately sick; his nurses show him marked attention, and feeling greatly obligated to them he writes a little note, "I intend to be legally bound to give you my estate when I die." He gets well and forgets all about this little note, and he goes back to his family and lives for twenty or thirty years. At the same time this thoughtless document—it would not be a question here of undue influence, fraud or duress, or anything else, the man was acting under great gratitude—this would disturb his estate. On the other hand, coming to the general law of proof of lost instruments, suppose in the case in question in connection with which this contest was precipitated, the contestants would have produced two witnesses to a lost instrument who would say, "Why, ten days ago at the hospital over here that gentleman made us his promise but we lost that letter," and two perjured witnesses produce the letter stating that he had agreed to give them his estate. I say there is room here for disturbing settled doctrines; the way is opened wide, due to the fact that it is novel and the fact that we are doing an indirect thing that we did with considerable satisfaction for a long while in many of the states.

Mr. ROSE: Permit me to say what we are doing is to get back to ancient landmarks. The civil law which controls all the continent of Europe is just along the same lines as this declaration. The common law with its seal was exactly along the same lines. Within the last few years a number of our states have abolished seals and have, therefore, removed the ancient landmarks and left us nothing but the sordid consideration of a money promise. If I make a most solemn promise to my nephew or someone else that I will give him a certain sum of money and on the faith of that promise he goes and changes his condition, assumes obligations which will ruin him unless I carry my promise out, and when I have put the man in that position I can just wipe my hands of it and say there was no consideration for it, that, Mr. Chairman, is not the ancient law. It is a very modern institution. In the last 25, 30 or 40 years only have we abolished seals and we have established a new form of law different from anything that ever existed in the world before, and I say if we adopt this law now we will merely get back to the ancient landmarks of the civil law and of the common law.

Mr. LEWIS: Mr. Chairman, I agree with every word that the gentleman from Arkansas has said. I simply want to add this additional thought. We did away with seals in many states in this country, not with any idea of doing away with the formal promise when the man intended to be bound but to get rid of seals in deeds and other instruments and to get rid of all the technicality that had grown around what was a seal. Now what this act does is—if adopted in several states its practical effect would be that it would become very easy in those states which still have seals—and there are a number of them—to do away with seals, but under the present method of procedure when a man proposes to do away with sealed instruments in a state, you instantly put the law in the anomalous position in which it is in those states which have done away entirely with seals, which is that a man who intends to be legally bound, who makes a solemn promise, is not held to that promise. It seems to me that's bad practical law and bad ethics.

The roll by states was then called on the approval of the Uniform Written Obligations Act, the vote resulting as follows:

<i>Yes</i>	<i>Wisconsin</i>
Arkansas	Wyoming
California	<i>Total: 24</i>
Colorado	
Illinois	<i>No</i>
Indiana	Alabama
Kansas	Arizona
Kentucky	Connecticut
Maryland	District of Columbia
Massachusetts	Florida
Mississippi	Georgia
New Jersey	Idaho
New Mexico	Iowa
New York	Louisiana
North Dakota	Michigan
Ohio	Missouri
Pennsylvania	Texas
Rhode Island	Virginia
South Dakota	<i>Total: 13</i>
Tennessee	
Utah	<i>Divided:</i>
Washington	Vermont
West Virginia	

The Uniform Written Obligations Act was then declared adopted and approved for a second time.

The Conference then went into a Committee of the Whole for the further consideration of the Uniform Firearms Act, Mr. Seth of New Mexico in the chair.

Mr. Imlay then read Section 3, as amended by the Committee.

Mr. HUNTER: I have discussed this section a little with Mr. Imlay, and it seems to me there is a little danger in it. This says "In the trial of a person for the commission of a felony" against the person or property of another person when he is armed, in violation of the law, he is presumed to be guilty of that particular felony. Suppose, as a matter of fact, it is merely an assault, which might

be a felony in some states. He would then be at the mercy of the prosecuting officer, who could accuse him with assault with attempt to kill, and if he had a pistol on him, in violation of the act, that would be prima facie evidence that he was guilty of assault with intent to kill, and it seems to me that perhaps this section would bear some revision in view of that particular situation.

Mr. IMLAY: In answer to the suggestion of the gentleman from Florida, I may say that the language here does, in fact, differ somewhat from the general language as modified in Section 2. There the additional punishment which is prescribed is in case of a crime of violence against the person or property of another. Here the Committee saw fit to let the matter stand in this shape, "a felony against the person or property of another," because in the judgment of the Committee it seemed best to limit the expression to "felony against the person or property," and at the same time the Committee felt that, whether related or unrelated to the crime, the possession of the pistol or revolver should carry with it the penalty of a presumption or prima facie presumption of guilt.

Mr. STONE: May I make this suggestion? This morning you changed Section 2 and gave us an illustration. Suppose the felony were perjury; suppose it is forgery or perjury or some such felony as that. It would be entirely disassociated from carrying of a weapon. Doesn't the same logic say that this section should be modified in the same way as Section 2?

Mr. BAILEY: It seems to me, gentlemen, that the thing is about right as the Committee have it. It is, I suppose, well settled in many of the states that when a man is on trial for a crime, it may be for violence but no matter what it is, you can put in evidence a conviction of another crime to affect his credibility. Now here, according to this you simply make a prima facie bit of evidence as to his intent. I don't think any harm would result from the thing the way it is.

Mr. ROSE: Mr. Chairman, you can convict a man on prima facie testimony. If I have been indicted for forgery, it seems to me it would be very cruel to send me to the penitentiary, convict me for forgery because I had a pistol in my pocket. I can't see any relation between the two.

Mr. ARMSTRONG: Although I am a member of this Committee, Mr. Chairman, I haven't attended many of its sessions and I am not thoroughly familiar with all these provisions. It does seem to me in criminal law it is always necessary to establish the commission of the criminal act for which the punishment is meted out, and, therefore, you would have to establish the fact of forgery before you could send the man to the penitentiary. There would have to be a proof that the forgery was committed, that the man on trial actually committed the forgery, and the provisions of this section, as I understand it, are that where it is necessary to prove in some definite and affirmative way the existence of an intention, then the existence of that intention is to be presumed and that fact alone is taken to be *prima facie* evidence established against the prisoner, but the fact of the act itself and the fact that the man committed it, those facts must be proven in the usual way.

Mr. Imlay then read Section 4 with changes suggested.

Mr. LEWIS: Is it not possible that the various uses of the word "felony" in the various states which are so different in one state than in another, or in some one state, where many crimes which are really much more serious are called misdemeanors while less serious crimes are called felonies, will produce confusion if you keep the word "felony" in the act?

Mr. IMLAY: The Committee will consider the suggestion of either amplifying the word "felony" by specific definition, or in some other way avoiding the difficulty of a difference in interpretation.

Now, gentlemen, may I call attention to this matter, upon which the Committee would like to have the guidance of the Conference, if the Conference will compare this Section 4 with the text of the Revolver Act, as it is reproduced in the appendix on page 38. Perhaps while you have page 38 before you, if you have turned to that page, I may call attention to Section 3 of the Revolver Act. Section 3 of the Revolver Act, as its language indicates, provides for additional periods of imprisonment; successively greater punishments in the case of second, third and subsequent offenders. The Committee felt that that section should be omitted. The Committee felt that the fixing of punishments could be taken care of

without a specific mandatory provision with reference to second and third offenders. It is true that the California Act, which adopted the Revolver Act in the main, contains those successive punishments, but in several other of the states that have adopted the Revolver Act the provisions for the additional punishments in cases of second and third offenders have been omitted. Unless there is some direction to the contrary by the Conference, the Committee will accept that as the wish of the Conference.

I take it, from a lack of response with reference to the omission of Section 3 of the Revolver Act, that the Conference is not inclined at least, at this time, to disagree with the Committee on the omission of that section from the model act. If that is true then I would like to answer Mr. Hollingsworth, and in answering him point out, first of all, that the model act, as you will see it on page 38, Section 5 of the model act, makes the prohibition not only as against felons or those convicted of crime but as against aliens, so that no alien can possess a pistol or a revolver. Now that provision is contained in the California Act. In order that the matter might be fully before the Conference, I have reproduced in the appendix on page 34 a resumé of those jurisdictions in which there are absolute prohibitions against the possession of pistols and revolvers by aliens. You will notice that they are relatively few. You will notice, however, that California, Indiana, New Hampshire and North Dakota, which took over the Revolver Act almost verbatim, adopted the prohibition against aliens.

Mr. CROOK: Mr. Chairman, in order to secure the feeling of the Commissioners on it, I move that there be inserted after the word "No" in line 1 the words "unnaturalized foreign born persons or," to correspond with Section 5 on page 38 of the federal act.

The motion to adopt the amendment was then put and lost.

Mr. OSMOND: "No person who has been convicted of a felony against the person or property of another"—where shall that conviction be, in the state or some other state?

Mr. HARGEST: There is involved in this section, and what I have to say is involved in many others: I notice you have provided punishments in many of the sections, in brackets, and in many of

the sections the punishment provided or suggested is imprisonment only. Take, for instance, Section 5, the carrying of a weapon concealed. It might be an offense and the offense might be such as to justify the imposition of a fine and not imprisonment. In many of the other sections you have suggested both fine and imprisonment. It seems to me that it would be more scientific, unless there is to be some distinct punishment prescribed for a distinct section, to put the whole thing at the end, "The punishment of any violation of this act shall be by fine not exceeding so much, and imprisonment not exceeding so much," and make it large and liberal enough to cover any case, rather than repeat it from time to time through the act.

Mr. Imlay then read Section 5 with suggested changes.

Mr. IMLAY: I may say before this matter is discussed, as the epitome of the state law will show in the pages that follow, that this section is almost universally the law in this country with the possibility that all of the states have not yet included in the prohibition the carrying of a pistol in a vehicle.

Section 6 was then read, after which there was discussion of details.

Section 7 as amended by the Committee was then read.

Mr. CURLEY: Is it the idea of the Committee in drafting this law, that if a person starts from New York to California on a little Summer jaunt and wants to carry a revolver in his automobile, he would have to stop at every state and get an additional license? Wouldn't it be much better practice if you put a provision in there that a license regularly granted in one state to a person passing through the country that way would be recognized? That would be an awful nuisance to a traveler.

Mr. IMLAY: We admit it would be very inconvenient and yet we believe we have the precedents entirely in our favor.

Mr. CURLEY: Here's the idea: Now, residing as I do in Arizona, there is no one better qualified to pass upon my right to carry a gun than the police officials and the judges of my state who know me. Now if they see fit to grant me a license to carry a gun, then shouldn't that be recognized, if I am traveling overland, by the other jurisdictions?

Mr. IMLAY: May I interrupt to say that Mr. Frederick points your attention to the fact that you can under this section, carry it in the automobile.

Mr. GRAHAM: What effect would it have if the laws of Michigan authorized him to carry a revolver or pistol in Arizona?

Mr. CURLEY: Simply the right of comity; the right one state should have to the recognition of the license granted by other states.

Mr. SHANDS: I merely now want to make a suggestion and give notice that I want to be heard when the bill comes up on final passage in opposition. I give notice that I shall present facts and figures to sustain the conclusion which I now submit to you, that there is no justification in a practical sense, good morals or otherwise, in any citizen of the United States, being permitted to carry a concealed pistol under any circumstances, except those who are specifically granted the right to so carry them. I hail from a state, where up to a few years ago the carrying of a pistol was more nearly unanimous than was the wearing of neck-ties. I have been personally connected in the practise of law with the trial of something over 100 homicide cases. I have recently had occasion to investigate the record, and in that number of 110 cases, to be exact about it, there were only three cases in which the dead man was unarmed. I presume that the object of the Committee here was to permit a man to carry a weapon to be used in his defense. I daresay there is not a man in this assemblage, and there are very few other good citizens too, in whose defense a pistol would be of any value whatever in a combat with a professional bandit, a highwayman or aught else. I find from my experience, on the contrary, that it is an invitation to a violent attack. If it be known that I never carry a pistol and a controversy arises between me and one of you gentlemen, you do not expect to be shot. You jump on me and bloody my nose, give me a black eye, and the whole difficulty is over and gone, but suppose, on the other hand, it be known that I hold a license to carry a pistol, that I am armed and equipped to take the life of my fellow-man in any controversy that may arise between us, that man with whom I am in a controversy is not going to take any chances on me.

He shoots, and he shoots first, because he feels that I will shoot. I know of cases, and can cite instances, give the names of the men killed, where the other men did not desire to kill them, that was far from their wish, but they feared not to do it because they knew that man was either armed at that particular time or armed customarily. When the bill is up for final passage I shall submit facts and figures to oppose the granting of a permit to anybody to carry a pistol at all. I think it is of no advantage to a peaceable law abiding citizen, and I do know it is an invitation to acts of violence and the use of deadly weapons by other people in a controversy that otherwise would be settled by possibly a mere fist fight and no harm done. I make those suggestions for what they may be worth, and give notice that I wish to be heard further.

Mr. Imlay then read Section 8.

Mr. WASHINGTON: In my state it is made illegal for any person to sell a pistol under any circumstances. The articles are not exposed for sale anywhere in my state by merchants. Other states may be in the same category. This section would seem to repeal pro tanto those laws.

Mr. CURLEY: May I ask one question in this connection? Did the Committee consider at all the inclusion of ammunition for these firearms and the regulation of the sale of it in any way?

Mr. IMLAY: Section 9, with the changes suggested, is as follows:

"No person shall transfer by way of sale, gift, loan, or otherwise, a pistol or revolver to a person who he has reasonable cause to believe has been convicted of a felony against the person or property of another."

Now I call attention to the fact that the rephrasing of that language makes it possible for one self-respecting citizen, having need of a weapon, to borrow one from another, because there is no prohibition against possessing.

Mr. VANDERVORT: Why not require that no sale shall be made to a person in any state of any firearm of this character unless the person produces a license to carry such firearm? I suppose the danger that comes from the indiscriminate use of firearms is as of great importance to the individuals of the state as the uniformity of the law in reference to it.

Mr. FREDERICK: Gentlemen, this provision was until the other day found only in the legislation, I think, of New York. It was there known as the Sullivan Law. The question has been the subject of very serious consideration and study. I think the unanimous opinion of those who have given it long and serious consideration is that the provision is not a desirable provision, for this reason: the law-abiding citizen is not the man who needs regulation in this respect. It is the man who is either a criminal by habit or a man of bad character. The inclusion of such a provision has practically this result, that the law abiding citizen who would like very much to have a weapon in his home or for the purpose of practise, or anything else, finds that it is a great deal of bother to go and get a license. He either disregards the provision and gets a gun in a roundabout way, or he doesn't get it at all, but the provision has, practically speaking, absolutely no effect in keeping guns away from the undesirable element of the community. Practically speaking, it disarms the potential victim; it disarms the great majority of the law-abiding men of the country and it leaves them at the mercy of the crooked element who are not deterred in the slightest by any such provision. The effect in New York has been, according to the statistics given by officials of the police department, that the sale of weapons to law-abiding citizens has fallen off in the first year over 90%, but that the crimes of violence committed by the use of a pistol in New York City increased very greatly; I have forgotten the exact percentage; I think it was 40 %, and while there is, frankly, a difference of opinion, I think I am safe in saying that the overwhelming opinion of those who have studied the matter disinterestedly and longest is that that provision is neither practical nor desirable, because it does not accomplish what we want. I may say that the worst feature of the firearm situation at the present time is not from the sale of weapons to law-abiding people, but it is the mail order business, the importation of cheap weapons, imitations of American guns in large quantities and their sale by mail through small and irresponsible concerns located in various large cities. If that could be stopped I think that the greatest step would be taken that could be taken toward the practical control of this situation and this act, I believe, accomplishes that purpose, but I think that

the principle of making a man, a law-abiding person go and get a license at great trouble, and sometimes expense to himself, is distinctly undesirable.

Mr. Inlay then read the remaining sections of the act.

Mr. FOLLAND: Mr. Chairman, I hope that the Committee will give serious consideration to the suggestion that before a sale is permitted a license must be exhibited by the purchaser. It seems to me under the provisions as now drawn a person could go to any licensed place where firearms are sold and could there procure his revolver, and he might even be a person who had been convicted of some crime. The chiefs of police or sheriffs usually have records in their identification bureaus that would give dealers information as to that class of people, whereas sellers of firearms do not have any such information at the present time, and this act gives any such person at least seven days, as a maximum, to forward this statement to the chief of police or the Secretary of State, and it would be at least seven days before they would have information of the persons who purchased a revolver.

The Committee then rose, reported progress and asked that the Uniform Firearms Act be referred back to the Committee for further consideration. The recommendation was approved by the Conference.

The Resolutions Committee then reported through Mr. Hollingsworth (see pp. 1083 for this report).

PRESIDENT MACCHESNEY: Now, gentlemen of the Conference, I am going to at this time express my appreciation of the opportunity given me to serve you and to thank you for your loyal, efficient cooperation during the four years I have presided over these Annual Conferences, and I hope we may continue to serve together for many years to come. It is my very great privilege at this time to present to you and to surrender to him, the president-elect, this gavel of office. Mr. George B. Young, of Vermont, your President. (Members arise and applaud.)

PRESIDENT YOUNG: Gentlemen, I did thank you the other day for the honor which you have conferred upon me, and I want at this time to again thank you for that honor. I don't wish to take any time but I do wish to impress upon all of the Commissioners cer-

tain matters which have been brought to your attention to-day,—the great financial need of the Conference, the fact that uniformity of legislation can only be accomplished by securing the adoption of our acts in our various legislatures, and that is a matter which, no matter what the Conference does, ultimately comes down to the effort that we individually put into that in our own states. We have got to get home and work. And if I may be pardoned just another suggestion, I think we should keep this in mind, that when we vote to take up a certain subject we should all give our best effort to get the best law on that subject that we can, a law which we believe in principle is right, even if it does vary somewhat from the law of our own state. Then I feel that each Board of Commissioners in their state must exercise their own judgment as to which of the acts we approve, they will present to their legislatures. There may be an act which you, from your knowledge of local conditions, will feel cannot be introduced and successfully passed by your legislature, but I do not think that as Commissioners here we should vote “no” on an act that is in as good form as we think it can be put, simply because we think it unlikely our own legislature would pass it. While some of you may be such good politicians that you can tell in advance just what some future legislature will do in your state with a particular act, I do not believe that is true of most of us. Conditions change, and I think we must bear in mind that we should seek to have our acts adopted with as little change as possible. In many cases the law of our own state is reasonably satisfactory to that state alone as it is. A uniform act must of necessity bring some changes in the laws of some, at least, of the states, and it is only for the purpose of making it uniform that we present many of these acts. It is because of the advantage of uniformity in those subjects that our legislatures should adopt the acts, and it is, of course, self-evident that if each legislature changes one or two sections in principle, and particularly if they change all those sections where-in the uniform act changes the present law in the particular state, you really have accomplished nothing toward uniformity and have simply loaded your statute books with what may be useless material, and we certainly have enough of that without this organization fathering any more of it.

Again I thank you, and I bespeak for the incoming administration the earnest support and cooperation of all of you.

MR. SIMS: Mr. Chairman, in view of the untiring efforts, the great ability, the ever present politeness, the kind courtesy and the strict impartiality even when handling his pet measures, that characterized the administration of our retiring President, I move that it be the expression of the Commissioners present in a body that we thank him and we shall ever consider him a most efficient member of this Commission.

MR. SHOEMAKER: Mr. President, I should like the high privilege of seconding that motion.

PRESIDENT YOUNG: It is a very great source of regret that it is impossible for me to put that motion in behalf of my esteemed friend and predecessor, but, unfortunately, the Constitution of this organization prohibits any votes of thanks or commendation or appreciation for the work of any of its members, including its officers; consequently, while all that is said in the motion is unquestionably true, it would be unconstitutional to vote it.

MR. SIMS: Then, Mr. President, we will make it just the same.

MR. WASHINGTON: We shall consider that understood if not expressed. (Applause.)

MR. BRONSON: Mr. Chairman, the Uniform Mortgage Act is dead, but, members of the Conference, you have heard the suggestion made by our former President. We ought to be gracious in recognition of the fact—Mr. Child is not here, the draftsman is not here—we ought to be gracious in the recognition that this Conference through a Committee has spent ceaseless and untiring work in this field going on five years, and we ought to have in mind that there has been a wonderful support by outside agencies for a Uniform Mortgage Act, and we ought to have further in mind the question of whether or not we ought to abandon the contact, if you please, with a Mortgage Act along lines of uniformity and abandon the field and turn it over to someone else in our field of operation to present to the legislatures of our various states.

Moved that a special Real Estate Mortgage Committee be

appointed to keep in touch with the subject and organizations interested in it.

Moved as a substitute that the question of the appointment of such a committee be referred to the Committee on Scope and Program.

The substitute motion was lost by a vote of 20 to 31. The original motion was lost by a vote of 18 to 29.

The Conference then went into a Committee of the Whole to consider the Uniform Child Labor Act, Mr. Zumbalen in the chair.

MR. CLEPHANE: Mr. Chairman and Gentlemen of the Conference: in 1911, as you doubtless recall, the Conference approved an act upon the subject of child labor, and for some reason that act has not seemed to meet with favor. I believe that this is due, not to imperfections in the act, but to the reluctance on the part of many of our state legislatures at that time to pass any act upon the subject of child labor. Since that time the situation has changed, and our Executive Committee has deemed it wise to appoint another Committee in this same subject to present a new act, an act drawn in the light of experience during the last fourteen years with the legislation of such states as have acted upon this subject.

In order that we may understand the importance of the proposition which is before us, may I state to the Conference that the census of 1920 indicated that there were 1,000,000 children between the ages of 10 and 15 employed in gainful occupations. Recently the American Federation of Labor has published a bulletin which quotes those figures, but it is only fair to say that those figures were reached at a time when it was believed that the Federal Child Labor Law was in effect. Since both of those laws have been declared unconstitutional upon grounds, of course, which do not concern this Conference at all, it is extremely probable, although we have no accurate figures upon the subject, that considerably more than 1,000,000 children of the United States are so engaged. In fact, some estimates have placed it as high as 2,000,000, but as to that there is no way of being accurate.

Of the 1,000,000 children reported as engaged in gainful occupations in 1920, about 650,000 of these were engaged in agricultural pursuits. The policy of the Child Labor Laws in our various

states has generally been to exclude agricultural pursuits from the limitations contained in those laws. If agricultural pursuits are excluded, it means that two-thirds of the children who would be affected by child labor legislation will receive no protection from laws of this character.

May I say, Mr. Chairman, and Gentlemen of the Conference, that no member of this section is in any respect a social reformer; no member of the section sought a place upon this Committee, nor, so far as I know, did any member of the section evince any particular interest in the subject until he received his appointment. Our instructions from the Conference were to re-draft legislation along this line. We have endeavored to do so without any particular personal views upon the subject but in the light of legislation of recent years and of the experience which that legislation has developed. The principal changes between the old act, which was approved in 1911, and the act which we now ask you to consider, are the following:

In this act we have included agricultural occupations, and I may say that there are only at this time some three or four states which have in any respect endeavored to regulate agriculture by young children, but we have embodied the agricultural feature in the act in order to obtain an expression of the views of this Conference as to whether you desire to have such legislation recommended to the states or not. If you do not so desire, as already stated, two-thirds of the children engaged in gainful occupations will be excluded from whatever benefits the act may possess.

We have provided in this act that before any permit to work is issued the name and address of the prospective employer shall be obtained. That is done in order to aid the school authorities primarily and also very largely because without it, it is impossible for the physicians, whose certificates are required as a prerequisite of the issue of such permits, to know whether they can properly certify a child as being fit for the particular occupation involved. We have required the parent, custodian or guardian of children to attend in person before the officer authorized to issue permits. That is done because in many instances it is believed that it would be unwise for children to obtain these permits without the full

sanction of the parent. More satisfactory evidences as to the date of birth are insisted upon in this act. Under the old act it was required that the physical examination which was necessary before a certificate should be issued should be conducted by two physicians. Experience seems to indicate that one physician will be sufficient, and we have acted accordingly. It is hardly necessary I think, to refer to other minor changes at this time.

I may add that, briefly speaking, the act prohibits any gainful occupation by children under the age of 14. That is very generally the minimum age fixed by statute throughout the country. We have provided that for children between the ages of 14 and 18 they cannot be permitted to engage in such occupations without a permit, and that permit must be based, first, upon the statement by the prospective employer of the occupation in which the child is to be engaged; second, by a certificate by the public physician who conducts the examination of the child that he or she is fit to engage in such occupation, and thirdly, that where the occupation will prevent the regular attendance of the child during school sessions there must be a certificate that he has reached the 8th grade and completed it.

It may seem that the age of 18 is high. The act has been criticised because the age of 18 seems too high to many. We were instructed by the executive Committee at its session, held in January last in Chicago, to bring in an act based upon the legislation of those states which have most recently enacted legislation upon the subject. There are in the union but five states in which the age is as high as 18. In three other states the maximum age is 17; in the vast majority of states the age is 16, so that it would be for this Conference to consider whether you desire 16 or 17 or 18 as the maximum age. We have incorporated in this act the age of 18.

Now those, if I may state it, are the principal features of this act, with the exception of the portion dealing with street trades, in which the age is somewhat lowered for certain kinds of street trades.

MR. BAILEY: Mr. Chairman, it may assist the Commissioners to know something about the early history of the Child Labor

Law in this Conference. I became a Commissioner from Massachusetts in 1909. I was instructed by the Governor of Massachusetts who appointed me, that it was desirable to have a Uniform Child Labor Law to be adopted in the different states, his reason being that the competition between manufacturers in the North and Southern states was such that it was desirable to have uniformity. I spoke to Dean Ames, then Commissioner from Massachusetts, and he said that the matter had been brought before the Commissioners and they had voted it was not a proper subject for uniform legislation, and most likely they would vote so again, but that there was no harm for me to introduce a resolution asking the Conference to take up the matter of a Uniform Child Labor Law. So I came to Detroit in 1909 with a resolution and I introduced the resolution. Mr. Eaton, of Rhode Island, was then President of the Conference, and I asked that a Committee be appointed to consider the subject and report the following year whether it was advisable for the Conference to go into that field of legislation, whereupon—I have forgotten whether it was Mr. Hart, of Louisiana, or some other member—moved to amend to have the Committee appointed and have them report the day following on that subject. That, of course, was agreeable to me. Then a Committee was appointed, consisting of Mr. Eaton, Mr. Hart, I think, Col. MacChesney and one or two others that were known to be favorable to a Child Labor Law, and they reported the next day in favor of such a law, and then a Committee was appointed, of which Amasa Eaton, of Rhode Island, and myself were members, and we went to work to frame a law, and the law which was adopted in 1911 was adopted after two years' consideration and amendment, and after getting the best expert advice then available from a National Child Labor Committee and other organizations interested in child labor. Now, I heartily approve of the action of the Executive Committee in voting to have a new Committee and a new law, but I am very much interested because I have been trying to have this thing done for ten years, and Mr. Terry, as you know, was dead against it. I don't know but what he would almost arise from his grave if he knew what we were doing now. We tried to have the Cold Storage Act reconsidered and improved, but no, no, it couldn't be done, but now the

world is moving and we are going to have an improved Child Labor Law because the world has been moving since 1911; and I might say that we got the Child Labor Law adopted in Massachusetts, I think, in 1913. It took two years of effort to overcome the opposition of the manufacturers, employers and of the labor organizations in Massachusetts. I have one suggestion to make, namely, the first year in Massachusetts we failed; we introduced the act as a whole and it went to the Committee on Labor and the manufacturers were there with their paid lobbyists and they defeated the law. The next year, under the advice of the Secretary of the Child Labor organization in Massachusetts, we divided the act into two parts; one as to the employment or schooling certificate, and the other part as to the hours of labor, and one part was referred to the Committee on Education, which we knew was friendly, the other part to the Committee on Labor, which was not so friendly, and the employment part went through without any opposition, and to our great gratification the other part also went through, and a paid lobbyist said to me a little later, "You got it by and I didn't notice what you were doing;" so there is a certain advantage in having it separated. It is all separated in the present revised act except that Section 26 might very well be moved over following Section 4, or under the heading which begins with Section; 4 but it seemed to me it would be rather interesting to you to know that we are taking a new step forward to-day when we undertake to improve an already adopted uniform law, something which I believe in, and that we are doing it with our eyes open. I think we ought to do it with our eyes open and that the Child Labor Law is a good piece of legislation to begin upon.

Mr. AILSHIE: Mr. Chairman, it perhaps is out of place for one coming from a state with so small a population to make the suggestion that I am going to make, but I ask the Committee to give it consideration, and that is raising the age from 14 to 16.

Mr. LEWIS: I am very much interested in this subject. I happen to be Vice-President of the Committee which is responsible for most of the child labor legislation in the various states, the National Child Labor Committee, and have worked for many years on this subject. I would like to know from the Chairman

of the Committee if what he wants is what those who have been working on this subject for years would consider as an ideal act, or what he wants is something that can be adopted in the next step, as you might say, in the most forward states, or the next step in the middle states? Those of us working on this subject rather divide the states into three classes; those that are backward, those that have come up to a certain point and those that have reached or almost reached the very excellent standard which has been put into this bill. This bill is most excellent. May I have the opportunity of congratulating the Committee on the very excellent provisions in this bill. I wish I was as hopeful about getting it through as a uniform measure, but I see no prospect of that.

Mr. CLEPHANE: May I say, in response to Mr. Lewis, that the Committee wants the most practical ideals that can be presented to them.

Mr. MARTIN: May I suggest to the Committee that it might be wise to consider the elimination of the feature of the act which includes agricultural occupations. A number of children employed as found by the census bureau in 1921, I think, 88% of that number work on the farms of their parents, and only 12% of them work elsewhere, and consequently, I think the Committee might well take into consideration the fact that that is a matter that they might eliminate from their consideration.

Mr. CLEPHANE: I might say that work on home farms is excluded under the terms of this act.

The Committee then rose, reported progress and asked to have the Child Labor Act referred to the Committee for further consideration. This was done.

President Young announced the meetings of Sections and Committees which were to take place at once, after adjournment.

The Conference then adjourned subject to the call of the President.



NATHAN WILLIAM MACCHESNEY
OF ILLINOIS

10TH PRESIDENT, NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS, 1922-1925.

PART III

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

UNIFORM STATE LAWS

Their Effectiveness and Vital Function as an Aid to
Constitutional Government

THE ADDRESS

OF THE

PRESIDENT

NATHAN WILLIAM MACCHESNEY
OF ILLINOIS

To the Honourable, State Commissioners to the National Conference of Commissioners on Uniform State Laws in Thirty-fifth Annual Conference Assembled:

The National Conference today opens its Thirty-fifth Annual Session, and while the progress in the field to which we are devoted at times seems discouragingly slow to those responsible for its results, I find on every hand an increasing interest in the deliberations of the Conference and appreciation of the character and effectiveness of the work which it is doing. The problems of our government, State and Federal, resulting partially from the overlapping of jurisdictions, the needless differences in our laws and the increased taxation as a result of this situation, has aroused to an unusual degree, widespread interest on the part of business and other organizations throughout the country.

In addition to this, we have in recent months had substantial support for the movement for uniformity of laws between the States from The President of the United States and an endorsement of the work of this Conference.

The President in his address at the Memorial Exercises at the Arlington National Cemetery on May 30th of this year quoted Chief Justice Marshall, who declared:

"When the American people created a national legislature with certain powers, it was neither necessary nor proper to define the powers reserved by the States. Those powers proceed, not from the people of America, but from the people of the several States, and remain after the adoption of the Constitution what they were before, except so far as they may be abridged by that instrument."

The President then went on to say:

"Our constitutional history started with the States retaining all of the powers of sovereignty unimpaired, save those conferred upon the National Government. The evolution of the constitutional system has consisted largely in determining the line of demarcation between State and National authority. The cases involved are many and complicated but there is a fairly good popular understanding of this continuing struggle between these contending sovereignties. Because of better communication and transportation, the constant tendency has been to more and more social and economic unification. The present continent-wide union of 48 States is much closer than was the original group of 13 States.

This increasing unification has well-nigh obliterated State lines so far as concerns many relations of life. Yet, in a country of such enormous expanse, there must always be certain regional differences in social outlook and economic thought. * * *

Though the (Civil) war ended forever the possibility of disunion, there still remain problems between State and Federal authority. There are divisions of interest, perhaps more apparent than real, among geographical sections or social groups. * * *

Our country, having devised this dual system of government, and lived under it longer than any other, is deeply concerned to perfect and adapt it to the changing conditions of organized society. A community comprising half a continent and more than a hundred million people, could not possibly be administered under a single government organization. We must maintain a proper measure of local self-government while constantly making adjustments to an increasing interdependence among the political parts."

It is to this task that the National Conference has for thirty-five years dedicated itself with increasing effectiveness, and,

I believe, with increasing prestige and influence. President Coolidge points out that the people are demanding more and more from the Federal government and complaining that it is spreading over areas which do not concern it and has stated fairly the reasons for this increasing demand, to which it would be well for the States, and ourselves as their official representatives, to give serious consideration. He says:

"Without doubt, the reason for increasing demands on the Federal Government is that the States have not discharged their full duties. Some have done better and some worse, but as a whole they have not done all they should. So demand has grown up for a greater concentration of powers in the Federal government. If we will fairly consider it, we must conclude that the remedy would be worse than the disease. What we need is not more Federal government, but better local government. * * *

Our country was conceived in a theory of local self-government. It has been dedicated by long practice to that wise and beneficent policy. It is the foundation principle of our system of liberty. It makes the largest promise to the freedom and development of the individual. Its preservation is worth all the effort and all the sacrifice that it may cost."

The President then says:

"If these principles are sound, two conclusions follow: The individual and the local, state, and national political units ought to be permitted to assume their own responsibilities. Any other course in the end will be subversive both of character and liberty. But it is equally clear that they in their turn must meet their obligations. If there is to be a continuation of individual and local self-government and of State sovereignty, the individual and locality must govern themselves and the State must assert its sovereignty. Otherwise these rights and privileges will be confiscated under the all-compelling pressure of public necessity for a better maintenance of order and morality. The whole world has reached a stage in which, if we do not set ourselves right, we may be perfectly sure that an authority will be asserted by others for the purpose of setting us right."

As I have stated, it is to the task of making the States effective within their respective fields that the work of this

Conference is devoted, as all of its members know, but in the interest of increasing its influence and of promoting the work which it has undertaken, it may be well again to call to the attention of those less well informed the origin, history and achievements of the National Conference as set forth in its Handbook, which states:

"The National Conference of Commissioners on Uniform State Laws is composed of Commissioners from each of the States, the District of Columbia, Alaska, Hawaii, Porto Rico, and the Philippine Islands (53 jurisdictions in all). In thirty-three of these jurisdictions the Commissioners are appointed by the chief executive acting under express legislative authority. In the other jurisdictions the appointments are made by the general executive authority. There are usually three representatives from each jurisdiction. The term of appointment varies, but three years is the usual period. The Commissioners are chosen from the legal profession, being lawyers and judges of standing and experience, and teachers of law in some of the leading law schools. They serve without compensation, and in most instances pay their own expenses. They are united in a permanent organization, under a constitution and by-laws, and annually elect a president, a vice-president, a secretary and a treasurer. The Commissioners meet in Annual Conference at the same place as the American Bar Association, usually for (the week) immediately preceding the meeting of that Association. The funds necessary for carrying on the work of the Conference are derived from (appropriations) from some of the States and from contributions made by the American Bar Association (and by State and local Bar Associations). The record of the activities of the Conference, the reports of its committees, and its approved acts, are printed in the annual Proceedings. The approved acts, sometimes with annotations, are also printed in separate pamphlet form.

The origin of the Conference is, briefly, this: in 1889, the American Bar Association appointed a special committee on Uniform State Laws. In 1890 the Legislature of the State of New York adopted an act authorizing the appointment of 'commissioners for the promotion of uniformity of legislation in the United States,' whose duty it was to examine certain subjects of national importance that seem to conflict among the laws of the several com-

monwealths, to ascertain the best means to effect an assimilation and uniformity in the laws of the States, and especially whether it would be advisable for the State of New York to invite the other States of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several States.¹ In the same year, a special committee of the American Bar Association, after reciting the action of New York, reported a resolution that the Association recommended the passage by each State and by Congress for the District of Columbia and the territories of a law providing for the appointment of Commissioners to confer with Commissioners from other States on the subject of uniformity in legislation on certain subjects. As a result of the action of New York, of the recommendation of the American Bar Association, and of the efforts of various interested persons, the first Conference of Commissioners was held in August, 1892, at Saratoga, New York, for three days immediately preceding the annual meeting of the American Bar Association. Since that time (thirty-four) Conferences have been held. While in the first Conference but nine States were represented, since 1912 all the States, Territories, and District of Columbia, Porto Rico, and the Philippine Islands have been officially represented.

The object of the Conference, as stated in its Constitution, is 'to promote uniformity in State laws on all subjects where uniformity is deemed desirable and practicable.' The Conference works through standing and special committees. In recent years all proposals of subjects for legislation are referred to a standing Committee on Scope and Program. After due investigation, and sometimes a hearing of parties interested, this committee reports whether the subject is one upon which it is desirable and feasible to draft a uniform law. If the Conference decides to take up the subject, it refers the same to a special committee with instructions to report a draft of an act. With respect to some of the more important acts, it has been customary to employ an expert draughtsman. Tentative drafts of acts are submitted from year to year and are discussed section by section. Each uniform act is thus the result of one or more tentative drafts subjected to the criticism, correc-

¹ See Appendix "A" for copy of original New York Act.

tion, and emendation of the Commissioners, who represent the experience and judgment of a select body of lawyers chosen from every part of the United States. When finally approved by the Conference, the Uniform Acts are recommended for general adoption throughout the jurisdictions of the United States and are submitted to the American Bar Association for its approval.

The Conference has drafted and approved thirty-eight acts. It has also approved seven acts drafted by other organizations. Some of its own acts have been, by Conference action, declared obsolete and superseded, leaving at present a total of thirty acts being recommended for adoption."

These Acts are as follows:

UNIFORM ACTS DRAFTED AND APPROVED BY
CONFERENCE, THE YEAR OF APPROVAL, AND
THE NUMBER OF JURISDICTIONS
ADOPTING EACH ACT.

Name	Year of Ap- proval	No. of Juris- dictions Enacting
1. Acknowledgments Act	1892	9
2. Acknowledgments Act, Foreign	1914	7
3. Aeronautics Act	1922	10
4. Bills of Lading Act	1909	26
5. Child Labor Act	1911	4
6. Cold Storage Act	1914	6
7. Conditional Sales Act	1918	10
8. Declaratory Judgments Act.....	1922	8
9. Desertion and Non-Support Act.....	1910	19
10. Extradition of Persons of Unsound Mind	1916	8
11. Fiduciaries Act	1922	10
12. Foreign Depositions Act.....	1920	10
13. Flag Act	1917	9
14. Fraudulent Conveyance Act.....	1918	14
15. Illegitimacy Act	1922	5
16. Land Registration Act.....	1916	3
17. Limited Partnership Act.....	1916	14
18. Marriage and Marriage License Act....	1911	2
19. Marriage Evasion Act	1912	5
20. Negotiable Instruments Act.....	1896	51

21. Occupational Diseases Act.....	1920	0
22. Partnership Act	1914	16
23. Proof of Statutes Act.....	1920	7
24. Sales Act	1906	27
25. Stock Transfer Act	1909	17
26. Vital Statistics Act	1920	1
27. Warehouse Receipts Act	1906	48
28. Wills Act, Foreign Executed	1910	7
29. Wills Act, Foreign Probated	1915	4
30. Workmen's Compensation Act.....	1914	3

Total No. of Uniform Acts, 30. Total legislative enactments	359
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In addition to these acts which have been given final approval by the National Conference numerous other subjects have been given consideration by the Conference. Acts have been prepared and adopted which have been subsequently declared obsolete or superseded, as stated, or which have been finally rejected and refused approval.

There are twenty-nine additional subjects in connection with which Uniform Acts are now being considered. These subjects are as follows:

1. Uniform Sale of Securities Act.
2. Uniform State Trade-Mark Act.
3. Uniform Trust Receipts Act.
4. An Act to Validate Certain Written Transactions Without Consideration, and to Make Uniform the Law Relating Thereto, known as the Uniform Written Obligations Act.
5. An Act to Validate Transactions Between a Person Acting on His Own Behalf and the Same Person Acting Jointly with Others, and to Make Uniform the Law Relating Thereto, known as the Uniform Interparty Agreement Act.
6. An Act Concerning the Discharge of Obligors Bound for the Same Debt and to Make Uniform the Law in Regard Thereto, known as the Joint Obligations Act.
7. Uniform Acknowledgment of Instruments Act.
8. Uniform Real Property Acts, involving the Consideration of Fifteen Proposals of the American Title Association.

9. Uniform Federal Tax Lien Registration Act.
10. Uniform Law Relating to Corpus and Income.
11. Uniform (Real Estate) Mortgage Act.
12. Uniform Chattel Mortgage Act.
13. Uniform Child Labor Act.
14. Uniform (Narcotic) Drug Act.
15. Uniform Act for One Day's Rest in Seven.
16. Uniform Act for Joint Parental Guardianship of Children.
17. Uniform Sanitary Bedding Act.
18. Uniform Marriage and Divorce Acts.
19. Uniform Act for Tribunal to Determine Industrial Disputes.
20. Uniform Primary Act for Federal Officers.
21. Uniform Public Utilities Act.
22. Uniform Act Governing the Use of Highways by Vehicles, known as the Uniform Vehicle Act.
23. Uniform State Inheritance Tax Act.
24. Uniform Incorporation Act.
25. Uniform Act for the Extradition of Persons Charged with Crime, also called Uniform Interstate Rendition Act.
26. Uniform Act to Regulate the Sale and Possession of Firearms.
27. Uniform Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases.
28. Uniform Arbitration Act.
29. Uniform Standard State Mechanics' Lien Act, to be known as Uniform Mechanics' Lien Act.

Drafts of these Acts with reference to certain of these subjects were considered at the last Annual Conference and referred back to various Committees having them in charge for consideration and report to this Conference, among them being the following:

Uniform Arbitration Act.

Uniform Vehicle Act.

Uniform Acknowledgment of Instruments Act.

Uniform Public Utilities Act.

Uniform Chattel Mortgage Act.
Uniform (Real Estate) Mortgage Act.
Uniform Sale of Securities Act.
Uniform Incorporation Act.

With reference to certain of these other matters, drafts are to be presented this year for the first time, though the Committees have heretofore had the matters in charge and up for discussion at the Conference. Among these are:

Uniform Act to Regulate the Sale and Possession of Firearms.
Uniform Federal Tax Lien Registration Act.
Uniform (Narcotic) Drug Act.

While with reference to certain of the other subjects the subject matter itself is to be taken up for the first time. Among the latter are:

Uniform Mechanics' Lien Act.
Uniform State Inheritance Tax Act.

For the last two years in connection with my Annual Address I have made it a practice to review for the Annual Conference the accomplishments of its Committees during the preceding year following the last preceding Annual Conference. This is a difficult thing to do as the various reports are received at so late a date and some of them are not available until the time of the Conference, notwithstanding the rule requiring that they shall be printed and distributed to the members of the Conference in advance of the Annual Meeting. However, the comment upon my attempt to summarize the work done the last two years by our various Committees leads me to believe that notwithstanding these limitations it is worth while to undertake it again. I want to again repeat what I have frequently said before, that all that the President does in connection with these matters is to direct and help make effective the constructive work done by the Sections and the various Committees under their jurisdiction, and that so far as worth-while work may have been accomplished during the past year it is due to the loyalty and industry of the Chairmen and Members of the various Sections and Committees in connection with the work under their charge.

Accordingly I beg to herewith submit in accordance with the Constitution, as a Supplement to my Address as Presi-

dent, a report, and summarize the work of the various Sections and Committees and make my recommendations with reference thereto.²

* * * * *

It again becomes my duty to convey to you the sad information of the loss we have sustained by the death of some of our colleagues who have long been associated with us. The names of those who have been reported to me are:

Hon. Cordenia A. Severance, St. Paul, Minnesota.

Hon. John H. Fry, Denver, Colorado.

Hon. Bradner W. Lee, Los Angeles, California.

Hon. Charles W. Smith, Topeka, Kansas.

Hon. J. Hansell Merrill, Thomasville, Georgia.

I do not want to let this occasion pass without expressing my sense of personal loss especially at the death of Mr. Severance, a former President of the American Bar Association, long a member of this Conference, and a member of my Executive Committee. I am sure that I speak the mind and heart of all of us when I say that the cordiality of his friendship and the value of his counsel will be long remembered and greatly respected by all who knew him.

I request that I be authorized to appoint appropriate Memorial Committees to prepare suitable memorials to be spread upon the permanent records of this Conference and that there be arranged a Memorial Service at which the memorials in honor of our deceased colleagues may be presented and that suitable arrangements may be made therefor under the auspices of the Executive Committee to whom I request this matter be referred.

Again, as I did last year, I beg to remind you that while the National Conference of Commissioners on Uniform State Laws is an independent and official body that the cordial relationship existing between the American Bar Association and this Conference is of the highest importance. Because of certain overlapping of consideration of various matters there has from time to time been some friction developed but the American Bar Association has taken prompt steps to eliminate the occasion for this, and it is believed that with the closer touch between the Executive Committee of the American Bar Association and the Executive Committee of our Conference which has existed in recent years that there will develop an increasing realization of the importance of

² See Supplement following body of Address.

the closest co-operation in order that the National Conference of Commissioners on Uniform State Laws may prepare Acts upon and report to the American Bar Association through its Committee those questions of importance from time to time in connection with which the public looks to the American Bar Association for guidance and to this Conference for the actual preparation of the Acts to be submitted.

What I have already said with reference to the history and development of our work and the present situation with reference to it, would perhaps be considered more than sufficient for the purposes of this occasion. However, having served on your Executive Committee for nearly ten years, and as its Chairman for two years, while I am now completing three years as your President, and this is the fourth Annual Conference over which I have presided, I feel that I do not want to let this occasion pass with an address which shall merely fill the time which is allotted to me now, but desire to express my faith in the value of our work, to answer certain criticisms that have been made with reference to it and to pass on for such use as you may care to make of it my views as to the place that the movement which we represent has in our form of constitutional government and the value of its contribution in achieving efficiency in our Republic without impairing the fundamental democracy of our people.

Heretofore I have pointed out that I believed that there was a growing appreciation of our work and that the Conference was acquiring an additional prestige. I do not think I am too optimistic in this matter notwithstanding that Col. John H. Wigmore (my friend and colleague of a quarter of a century and former member of this Conference, whom I regret to say has just retired from it as the result of failure of reappointment) has written me concerning the general success of the movement for uniform State laws, and not with particular reference to the National Conference, and suggested that what I have to say

“about the significance of that achievement should be pessimistic instead of optimistic. In fact, the time has now come when the States should be upbraided severely for not making more systematic and rapid progress in avoiding the threatened Federalization of everything by acting promptly on the voluntary adoption of Uniform Acts. How needful is this stimulus may be seen by the following calculations based on your table. (Referring to the table included in my address as President in 1924.)

The 30 Acts of the Conference, beginning with the first and ending with the last one enumerated have taken 276 legislative years to adopt. Divided by 30 this gives 9.2 legislative years per State per act on the average; which would give us complete uniformity long after the present generation is gone. Take another point of view. The total legislative acts necessary to make uniform the law on those 30 subjects is 1,500, but only (359) have been passed, or only one-quarter of the necessary number."

This distinguished scholar believes in the movement for uniformity in State legislation and approves of the part which the National Conference of Commisisoners has taken in it, but deplores the lack of support that has been given the movement by the legislatures and the people of the respective States.

On the other hand there recently appeared in a magazine for popular distribution, the American Mercury for May, 1925, an article on "The Uniform Laws Craze" by one John Hemphill. A number of our members have written to me regarding this matter but those of our colleagues to whom I spoke did not think the article should be dignified by a reply. In view, however, of the fact that it has recently been reprinted in a magazine circulated among the lawyers and business men of the country, "The Lawyers and Bankers" for May-June, 1925, I think it worth while to comment on it at this time.

Mr. Hemphill does the American Bar Association and the National Conference the honor to state that its early work was admirably done but continues in a tirade of abuse against both the personnel of the Conference and the work it has undertaken and is now doing. If the accuracy of his information or the logic of his article were equal to the insolence of his pen it might be the occasion for some anxiety on the part of the Conference with reference to its personnel and work. Fortunately, neither is true, however, but nevertheless such an article written in a popular style might be quoted and mislead people as to the facts. The National Conference in the past has indeed had a creditable record and has had a personnel of high order containing some of the most distinguished names at the Bar. Nevertheless I venture to assert there was never a time in the history of the National Conference when it had a program of more far reaching importance or when it was being more looked to from substantial quarters or when it had men of greater ability taking part in the discussions on the floor. Lest I might be thought

to draw invidious comparisons I will not attempt to call the roll of the distinguished names among our colleagues, but I am sure that all of us recognize that amongst us are some of the best minds and the most public spirited men in the profession, men who are capable of the very highest service in connection with the work which has been undertaken.

We had not noted that it had been easy, as has been pointed out by Colonel Wigmore, to secure the adoption of our various Acts. Yet Mr. Hemphill is pleased to say:

"The sovereign horde of yokels within and without the State legislatures continue to doff their hats to it and to do its bidding."

Apparently we have a higher opinion of the qualifications of our various State legislatures than has the author in question, but we had not noted that they had followed our bidding without question.

Mr. Hemphill then proceeds to list the various Acts which have been passed heretofore, or which are under present consideration by this Conference. In the list are one or two of doubtful value, but apparently he has no sympathy with any of the program included within the group of what is now our Uniform Social Welfare Acts.

Mr. Hemphill picks out for particular scorn one of the Acts "proposed by the now imbecile child," one of his pet designations for the National Conference, our Uniform Marriage Evasion Act apparently endeavoring to be cheaply funny or else he is wholly ignorant of the wholesale abuse of our legal system which this Act attempts to meet and the situation with which it deals. He also picks out for special consideration the Uniform Cold Storage Act and asks "Why uniform cold storage?" in his discussion of it. We might perhaps refer this matter to the great commercial interests which were harrassed by the diverse regulations on this subject by the various States until this Act was prepared and passed, but it is evident that Mr. Hemphill has given no consideration to the problem involved or the situation which this Act was intended to meet.

Mr. Hemphill says:

"The greater the uniformity the greater will be the demand for more uniformity, until eventually the States will be but townships of the American Empire, and the people will be led and cajoled and driven like soldiers."

He then goes on to say:

"Mr. Madison's ideas of the rights of the States are still worth fighting for; it is not yet futile to contend against Federal larceny by constitutional amendment, and it is still worth while to give battle against the half-brother of Federal larceny, the pressure for uniformity."

This but represents one of the inaccuracies and lack of clear definition in this article by Mr. Hemphill. He confuses the desire for uniformity with the desire for unification of our law. The latter leads to Federal amendment and the only effective method by which this tendency to unification may be met is by the development of the powers of the State through uniform State legislation. Mr. Root, Mr. Hughes, President Coolidge and other leaders of American thought clearly see this even if Mr. Hemphill does not.

He expresses the hope that the American Bar, in which, as I have heretofore stated, there is a growing appreciation of our work, "will smite (the National Conference) down," but why go on in a discussion of this tirade. Perhaps its only significance is that which attaches to abuse of this kind. It is usually directed against men and institutions of recognized position and achievement. It hardly makes a good story to attack something which is not thought well of in many quarters.

There always has been and always will be a cry against the multiplicity of laws. It not only places an enormous and unbearable burden upon business but the impossibility of knowing or complying with the provisions of such a vast number of diversified laws apparently makes the average American business man a law-breaker.

"The Detroit Free Press" in its issue for June 24th of this year in an article upon this subject stated—

"It is to be assumed that we are as intelligent today as were the Romans in Justinian's time. And, indeed, the codification of law, along somewhat the same lines, proceeds in many states and cities. But is there no way to make laws uniform and yet sufficiently elastic to cover local situations? Is there no great blue pencil that we can run through nine laws out of every ten?

As yet, No. But the day seems hastening when there must come relief from the situation that already has become intolerable. At heart and in daily conduct,

Americans are law-abiding. More than that, the overwhelming majority are eager to keep the law."

To reply to this question may I say that there is no way by which a unified or federal law can be sufficiently elastic to cover local situations. But it is the peculiar merit of our constitutional system that State legislation does give this elasticity and through uniform laws in the various States much can be done to bring about an affirmative answer to the second question for whenever the law is made uniform in the fifty-three jurisdictions represented in the National Conference it means that a national business interest or organization has to bear in mind the provisions of but one law on that subject instead of the provisions of fifty-three. This Conference, therefore, to take a specific example, The Uniform Negotiable Instruments Act, has done better than the question asks, so far as that field is concerned, and has run the blue pencil through fifty out of fifty-one provisions with reference to this important field of commerce.

This is proportionately true in the case of each of the other Acts prepared by this Conference which has been adopted by the States.

The Committee on American Citizenship of the American Bar Association, in a recent open letter to the members of their Association signed by Mr. Josiah Marvel as Chairman, states—

"The American Bar Association has declared its opinion to be that the American people are losing sight of the benefits that have arisen from the limited powers of our Federal Government and the retention of rights by the States and by the people, as declared in our Bill of Rights. It is believed that the spirit of our Constitution has been largely responsible for the development of American character, and that the destruction of this spirit will make for a different character that will not be based upon individual responsibility arising out of individual liberty regulated by law. It is believed that the American people are drifting slowly, but certainly to socializing through centralizing, and that they are permitting this without due consideration of the harm that will arise therefrom."

This same fear is expressed in connection with the discussion of a recent address by President Coolidge before the Business Organization of the Government in the heading of an

editorial appearing in "The Detroit Free Press" for June 25, 1925—"Invited But Dangerous Trespass". It refers to an address by the President delivered at Memorial Continental Hall on June 22, 1925, at the 9th Regular Meeting of the Business Organization of the Government held in connection with the Bureau of the Budget. In the course of that address the President said—

"Unfortunately the Federal Government has strayed far afield from its legitimate business. It has trespassed upon fields where there should be no trespass. If we could confine our federal expenditures to the legitimate obligations and functions of the federal government, a material reduction would be apparent. But far more important than this would be its effect upon the fabric of our constitutional form of government which tends to be gradually weakened and undermined by this encroachment. The cure for this is in our hands. It lies with the people. It will come when they realize the necessity of state assumption of state responsibility."

"The Detroit Free Press" in its discriminating editorial then goes on to say—

"The encroachment of the federal government upon the rights and powers of the state, the neglect and incompetency and indifference of the state governments which not only permit, but even encourage and almost demand this encroachment, and the dangerous and demoralizing results of the ever increasing tendency toward a centralized paternalism and imperialism are matters that plainly weigh heavily upon the executive mind." * * *

"It is to be noted that President Coolidge does not blame the federal government for its trespass upon the rights of the states—at least not over much. He sees, and he says that the principal fault is with the states themselves. Indeed in a former address he puts this point squarely up to the nation and told the sovereign commonwealths composing it that unless they rouse themselves and perform the duties which are allotted to them by the constitution they must be prepared to see the national government take these over because the duties must be looked after by somebody.

"That this deduction, or prophecy by Mr. Coolidge, as you may please to call it, is sound, is made evident by tendencies that already are manifesting themselves. That

the American republic in its present form will not persist and that eventually the state governments will become mere satrapies of Washington, unless the states assert themselves and protect their rights and powers by using them is already quite apparent."

"The World's Greatest Newspaper"—the Chicago Daily Tribune on December 4th last also had an editorial on this same subject under the heading—"The States and The Nation" in which it said among other things that—

"An atrophy of will and responsibility follows the transfer of duties and obligations, and the relinquishment of rights by the state to the central government. There has been a pressure to do this because the states do not assume their responsibilities uniformly well. But we are not convinced that the cure for the backward states is in the assumption that because the people have not done so they cannot do so and should be absolved of the responsibility of trying." * * *

"We believe in local government by competent states. In spite of backward states the history of the country sustains that principle, and the history of many countries reveals the defects or dangers in a highly developed and widely spread central bureaucracy. Local government is essentially self-help. That is what a democracy needs to the largest extent it can be made to work."

Again let me say as I have said to you elsewhere many times that this National Conference is one of the most effective efforts in just that attempt to make it "work".

THE UNDERLYING PHILOSOPHY OF THE MOVEMENT FOR UNIFORM STATE LAWS.

I shall undertake briefly to review for you the present tendencies in political and economic life, the nature of democracy, our desire, as a people for efficiency, the formation and underlying principles of our government, the need for a philosophy of law in America, the movements of society which make for uniformity, the opportunities for law to fellow society in this regard and the relationship which our movement has to these fundamental questions involved in modern American life as worked out under our constitutional system of government—in other words I will endeavor to state so far as I may be able to do so the underlying philosophy

of the whole movement for Uniform State Laws and my reasons for believing them to be effective and vital in any programme to maintain our government under the Constitution.

I. World Tendencies.

Many believe that democracy itself at the present time is again on trial, and it is everywhere heard that efficiency in Government, as efficiency in business, must be secured at all hazards, at any cost. But may not too much be sacrificed for it, and too high a price paid? Increased efficiency is certainly to be desired. Is it contradictory to, and impossible of realization in, a democracy? What is a democracy? Is it threatened by the current tendency of the world political life? Can it maintain itself as against more centralized forms of Government? How can it be made efficient so that it may at once maintain itself against more autocratic forms of government, and at the same time realize its own largest possibilities? These are certainly some of the questions that may have occurred to any thoughtful student of the day.

II. Nature of Democracy.

When the Government of the United States was founded, it was the greatest experiment ever attempted of a democracy, which has always been thought better adapted to closely confined small areas than to wide-spreading continental countries. Nevertheless, democracy found its most favorable soil in a new country needing development. We are told by Montesquieu³ that democracy is best adapted to barren countries where the earth has occasion for all the industry of men, and where they can be rewarded thereby for the difficulty of their labor. With the growth of a country in population and in wealth, the advantages of democracy while no less real are less apparent; while, on the other hand, the defects of such a government stand out with increasing clearness. I wonder if we realize the advantages for the preservation of our democracy which have been given us as a result of the jealousies of the original Colonies; not to base it upon the wisdom of our forefathers, as is so frequently done, and to which in some measure it must be conceded they are entitled. The adjustment between State and Nation growing out of our Colonial conditions and perpetuated by our Federal Constitution is today a necessary safeguard of our democracy and a guarantee of continued National existence.

³ Montesquieu, "Spirit of Laws," Book XVIII.

It is true that the old State rights represented localism, or provincialism, if you please, as opposed to nationalism or continentalism. But today the development of the State is needed, as it was then, to avert centralization of Government; not to weaken the Nation, but in order that there may not be subverted in it all that is truly National in our common life. In order, in fact, that the ideals of the Nation and the promise of our democracy may be fulfilled to the fullest possible extent. It was long ago pointed out that local institutions are useful to all nations, but that they are indispensable in a democracy. A powerful aristocracy can usually control excesses and suppress movements which do not serve the common end. But unless a democratic people are trained through their local governments near at home to exercise the functions of government, and to practice self-restraint, they cannot in such numbers become familiar with the practices and necessities of government as to make successful a national democracy. We are told by De Tocqueville:⁴

“What resistance can be offered to tyranny in a country where every private individual is impotent, and when the citizens are united by no common tie? Those who dread the license of the mob, and those who fear the rule of absolute power, ought alike to desire the progressive growth of provincial liberties.

“On the other hand, I am convinced that democratic nations are most exposed to fall beneath the yoke of a central administration, for several reasons, amongst which is the following: The constant tendency of these nations is to concentrate all the strength of the Government in the hands of the only power which directly represents the people, because beyond the people nothing is to be perceived but a mass of equal individuals confounded together.”

Laws passed by the people of the several States, while to some seeming to tend toward national dis-unity, may by proper co-operation be brought to promote the very unity which at first impression they would seem to destroy. The distant and the unattainable does not much interest most men, and no law could interest men in government who take no interest in it. But when brought near enough to the people, it may arouse in them a desire to know their Government

⁴ De Tocqueville, “Democracy in America,” Chapter 5, page 94.

and to participate in it. They may even become so interested in it that they may come to regard it as a part of themselves, and by becoming part of their daily life it will promote an interest in public affairs which would otherwise be absent. We have been told by De Tocqueville:⁵

"In the United States the interests of the country are everywhere kept in view; they are an object of solicitude to the people of the whole union, and every citizen is as directly attached to them as if they were his own. He takes pride in the glory of his nation; he boasts of its success, to which he conceives himself to have contributed; and he rejoices in the general prosperity, by which he profits. The feeling he entertains towards the State is analogous to that which unites him to his family, and it is by a kind of egotism that he interests himself in the welfare of his country."

Whether this be a wholly fair analysis of the reason for American patriotism, or not, there can be no doubt that it is a contributing influence.

With age, growth of population, and accumulation of wealth, a general Government is sure to acquire immense power, and if with this is united the daily administration of affairs close to the people, the people themselves become habitually accustomed to governmental interference, and consequently not only in the matter of laws to be enforced but in opinions upon all subjects accept from the central power, the line of conduct to be followed, desired acts to be achieved, and the methods by which they are to be accomplished.

Instead of bemoaning the fact, therefore, that in America law enforcement is not easy, we should rather, without palliating the violation of measures intended for the common good, glory in the fact that individuality of opinion and freedom of conduct is preserved. Only so can a sound public opinion be maintained and the ideals of the people for and in their Government be achieved. If it were not true, the people would become less and less capable of governing themselves, and more and more dependent upon a strongly centralized power. And the growing incapacity of the people to properly control and direct the tendency of the Government would constantly increase the need if the power of centralization were in force and by the constant exercise of its power de-

⁵ De Tocqueville, "Democracy in America," Chapter 5, page 92.

prived the people of independent thought and action. With reference to this situation we have been told:⁶

"Granting for an instant that the villages and counties of the United States would be more usefully governed by a remote authority which they had never seen than by functionaries taken from the midst of them—admitting, for the sake of argument, that the country would be more secure, and the resources of society better employed, if the whole administration centered in a single arm—still the political advantages which the Americans derive from their system would induce me to prefer it to the contrary plan. It profits me but little, after all, that a vigilant authority should protect * * * and constantly avert all dangers from my path without my care or concern, if this same authority is the absolute mistress of my liberty and of my life, and if it so monopolizes all the energy of existence that when it languishes, everything languishes around it; that when it sleeps, everything must sleep; that when it dies, the State itself must perish."

It is peculiarly necessary in a Government such as ours that democracy be developed to its fullest extent, as not only is there no responsible desire to develop an aristocracy, but it would be impossible to secure the advantages of it. "Society" in America is not aristocratic, often it is not even representative of the best in American life but is plutocratic, based in most instances on recently acquired great wealth. Some of our critics, both olden and recent, have apparently contrasted the advantages of a responsible, educated, intelligent, seasoned, aristocracy with the difficulties attending upon the successful administration of a democracy, entirely forgetting, apparently, that our choice, even if we desired to make it, would not be between such an aristocracy and a democracy such as ours, but between a plutocracy, which God forbid, and a representative democracy. Our attention was called to this matter long ago by De Tocqueville:⁷

"Land is the basis of an aristocracy, which clings to the soil that supports it; for it is not by privileges alone, nor by birth, but by landed property handed down from generation to generation, that an aristocracy is consti-

⁶ De Tocqueville, "Democracy in America," Chapter 5, page 90.

⁷ De Tocqueville, "Democracy in America," Chapter 2, The English Colonies in America.

tuted. A nation may present immense fortunes and extreme wretchedness, but unless these fortunes are territorial, there is no true aristocracy, but simply the class of the rich and that of the poor."

This country does not desire an "aristocratic liberty," but rather a democracy reaching to every desirable citizenship through the pride in the hearts of each of its citizens. It does not desire to have law enforcement and liberty achieved through a "physiognomy of servitude," but rather through a familiarity with the processes of government and a pride in them which shall make every man do his duty to his community. The "State's rights," which were advocated at one time in the South to keep the central power weak, should now be rehabilitated as a political doctrine to make the nation strong through service of its citizens everywhere.

It has sometimes been said that Montesquieu⁸ did not believe in a general union of the States; that he was in fact opposed to republicanism, but Alexander Hamilton shows the mistake of this when he says:⁹

"So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States that he explicitly treats of a Confederate Republic as the expedient for extending the sphere of the popular Government. * * *"

We find by going to this authority himself that he says:

"It is very probable that mankind would have been obliged at length to live constantly under the Government of a single person, had they not contrived a kind of constitution that has all the internal advantages of a Republican, together with the external force of a Monarchical Government. I mean a Confederate Republic.

This form of Government is a convention by which several small States agree to become members of a larger one which they intend to form. It is a kind of assemblage of societies, that constitute a new one, capable of increasing by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.

A Republic of this kind able to withstand an external

⁸ Montesquieu, "Spirit of Laws," Volume I, Book 9, Chapter 1.

⁹ Alexander Hamilton, Federalist, 5th Section, 5th Series, 1787, #7.

force may support itself without any internal corruptions."

Alexander Hamilton¹⁰ also calls our attention to the advantages of a Confederate Government by observing the principle laid down by some students of democracy that they should be small in extent and at the same time giving us the advantage of a national existence.

The inevitable tendency of National life, as in individual life, is from the innocence and bloom of youth, from simple conditions, to the passions and complicated affairs of manhood. We must not let the passionate desire for improvement terminate in impotence and befuddlement, nor, in worshipping the statue of American Liberty forget the spirit which it represents, but should rather through an architectonic genius which shall be worthy of our forefathers realize under new conditions from its changing forms our new ideals in accordance with the best traditions of the past. The growing consciousness of American nationality and the passionate desire for it in view of what sometimes seems to be the divided faith of our people should find expression in and be encouraged by a more uniform justice without impairing the local liberties of our people.

In our desire to secure a larger national efficiency, let us not demand an abridgment of the rights of the State, from which would inevitably flow a centralization which would necessarily ultimately destroy the democracy of our people; but realize that the States through the creation of common ideals and the enactment of common laws may become energizers of our common life, stimulators of our trade and industry, promoters of good will among our people, and the creators of mutual acquaintance, esteem and unity of purpose throughout the Nation. **It should never be forgotten, by the Bar at least, that a democracy and safeguards against the tyrannical majority, as found in our plan of Government, are as essential today as they ever were in our history, and that this may be achieved not by a democracy which shall take all and give nothing, but by a democracy such as Edmund Burke describes, when he says:**

"Universal service through universal desire, enforced by common will through common purpose to fulfill a common duty."

¹⁰ "Publius"—Federalist—To the People of the State of New York.

III. Desire for Efficiency.

The desire for efficiency in our Government is both natural and laudable, especially as it would seem that not only does the lack of it prevent its realizing its highest possibilities, but threatens the existence of democracy itself. There are those who believe that democracy and efficiency are contradictory principles, and cannot co-exist in the same government, but Montesquieu, and De Tocqueville, and Burke believed that our Federal plan gave promise of securing the one without sacrificing the other, and Washington and Hamilton and Madison drew freely from these sources to support their contention that this was true. The great wealth of material interests in this country and the commercial development of our people has tended to make us give too exclusive attention to business prosperity and too little to a studious review of the tendencies of our Government. The business man, type and exemplar of our National life, as he has often been and usually is, has too easily tended to draw an analogy between the necessary efficient organization in his wide-spreading business and desirable changes in our national life by way of centralization to accomplish what he saw to be a needed efficiency and what he believed could only be achieved in that way. We have been told:

“Men living in democratic countries eagerly lay hold of general ideas, because they have but little leisure, and because these ideas spare them the trouble of studying particulars. This is true; but it is only to be understood to apply to those matters which are not the necessary and habitual subjects of their thoughts. Mercantile men will take up very eagerly, and without any very close scrutiny, all the general ideas on philosophy, politics, science, or the arts, which may be presented to them, but for such as relate to commerce, they will not receive them without inquiry or adopt them without reserve.”¹¹

It is entirely conceivable that a man might become a great steel magnate or a successful manufacturer of means of transportation, and still his views be wrong upon questions relating to the best form of national government or of desirable international policies.

Let us turn rather to the acute critics of other countries who have studied our institutions, or to the great students of

¹¹ De Tocqueville, “Democracy in America,” Volume II, Chapter 4, page 21.

public affairs in our own land, who have delved deeply and observed wisely the tendencies of political institutions, not only today but yesterday, and in past ages throughout recorded history. We must not too hastily adopt forms of government which produce desired ends elsewhere, but which may violate the spirit of our institutions, or the ready-made opinions of so-called students here, who but copy without adequate study or experience to understand the original forms or adapt them to American conditions. No one can profitably apply a foreign example or foreign experience to American conditions unless he has studied so closely or knows so well the spirit of our institutions and the needs of our people as to be able to adapt them to both so as to without violation to the one meet adequately the other. Only thus can we hope to guide our Government in such a way as to get desired results without sacrificing our fundamental conceptions of liberty and of government.

IV. Formation and Underlying Principles of Our Government.

There are certain conceptions with reference to the formation of our Government which pass current as the inherent principles upon which it was founded.

We inherited the common law from England and its doctrines have been intrenched in our State and Federal constitutions, including the Fourteenth Amendment, so that it is beyond the reach of ordinary State action, and could be dislodged if it were desired only by amendment of the Federal Constitution. It is sometimes assumed that this was the universal aim and desire of the founders of our Government, but Roscoe Pound¹² wrote an article some years ago in which he said:

a. COMMON LAW.

"This was not achieved without a struggle. Jefferson in 1815 denounced the common law doctrine of *supremacy of law* when applied by courts in holding legislative acts unconstitutional, as a theft of jurisdiction. Virginia, Kentucky, Pennsylvania, Georgia, and Wisconsin denounced it. A strong opinion to the contrary was pronounced by an able judge.¹³ As late as 1833 it was seri-

¹² Roscoe Pound, *Columbia Law Review*, Volume V, page 341. (May, 1905.)

¹³ *Eakin v. Raub* (Penna. 1825), 12 S. & R. 330.

ously proposed that the Federal Constitution be amended to provide a special tribunal for the determination of questions as to the authority of Congress and of the several States under the Constitution. In addition to this far reaching principle which fixes the common-law doctrine of supremacy of law in our institutions, the common-law dogmas of inviolability of person and property, of the local character of criminal jurisdiction, of due process of law—a phrase as old at least as the reign of Edward III¹⁴—that private property cannot be taken for private use, nor for public use without due compensation—a doctrine as old as Magna Charta—that no one shall be compelled in any criminal prosecution to be a witness against himself, and of the right of trial by jury, with all that was meant thereby at common law; all these dogmas are protected in State and Federal Constitutions so as to be substantially beyond the reach of legislation. * * * Superficially, then, the triumph of the common law seems assured. Nevertheless, jurists are by no means certain that this is so. The most obvious danger, and the one most frequently adverted to, is legislation. * * * I cannot think, however, that there is any real cause for apprehension from this quarter. I come to such a conclusion for two reasons. In the first place, there is little legislation that is original. Legislatures imitate one another. * * * Secondly, everything indicates that codification, as such, is still far remote. The gradual codification now in progress is but a legislative restatement of particular departments of the common law. It promotes unity. It does not affect the system itself—its basic dogmas and tenets—in the least. Each statute is but a fresh starting point for a new body of case law. Moreover, general codification, when it comes, is almost certain, unless an entire change of feeling intervenes, to be a restatement of the common law in improved form, pruned of archaisms and antimonies, to be construed according to common law principles, and in due time to be overlaid by a new growth of adjudicated cases.”

So far, then, as we may believe that the principles of common law are fundamental to our institutions, if we are to believe this great authority, we may regard them as fixed in our basic law itself.

¹⁴ 37 Edw. III—Cap. 19, 21.

b. ECONOMIC BASIS OF THE CONSTITUTION.

Discussions of our basic law often assume that our Constitution and all that was incorporated in it became such by a sort of divine revelation to our forefathers, and completely ignore the actual facts of life which in large measure gave rise to its particular form. This neglect of the actual facts and conditions out of which the events arose which produced our history is most pronounced in the fields of public and private law. Until recent years the reason for this has been perfectly apparent. The time of the Bar of the country, the principal body of men devoted to the study of these subjects, was largely devoted to "practical" ends, and only comparatively recently has a scientific study been made of the underlying principles giving birth to our fundamental legal concepts. Even now it is difficult to get proper attention given to these subjects in the important law schools. It is to be hoped that there will be a growing interest in the careful scientific study of the conditions giving rise to our political institutions and legal ideas, in order that each on-coming generation may approach these subjects in a progressive spirit.¹⁵

Professor Beard,¹⁶ in his illuminative study of the underlying economic causes giving rise to the Constitution of the United States, and of Jeffersonian democracy, says:

"There are three interpretations of history:

First, explains the larger achievements of national life by referring to the peculiar moral endowments of the people acting under divine guidance, the working out of a higher will than that of man.

Second, the Teutonic—ascribes the wonderful achievements of the English speaking people to the peculiar political genius of the Germanic race, and

¹⁵ See Goodnow—Social Reform of the Constitution, Philosophy of Law Series, published under the direction of the Association of American Law Schools; see also the writings of John H. Wigmore in the Illinois Law Review, by Roscoe Pound in Columbia Law Review, Vol. V, page 339, Green Bag, Vol. XIX, page 607, Columbia Law Review, Vol. VIII, page 605, American Law Review, Vol. XLIV, page 12, and by Professor Munroe Smith, "Jurisprudence" in Columbia University lectures, in Arts and Sciences.

¹⁶ Beard, Chas. A. "An Economic Interpretation of the Constitution of the United States" (Macmillan Co., 1923); also "Economic Origins of Jeffersonian Democracy" (Macmillan Co., 1915).

Third, is characterized by absence of any hypothesis, but regards rather the political conceptions of the people as explainable by the particular facts, one of these is the theory of economic determinism."

Professor Beard writes:

"The absence of any consideration of the social and economic elements determining the thought of the thinkers themselves is all the more marked when contrasted with the penetration shown by European savants. * * * Indeed almost the only indication of a possible economic interpretation to be found in current American jurisprudence is found in the writings of a few scholars like Professor Roscoe Pound, and Professor Goodnow, and in occasional opinions rendered by Mr. Justice Holmes of the Supreme Court of the United States."

Whatever we may have been brought up to believe, or may have been taught in our earlier days, in the light of these and other studies, it cannot be doubted that our Government, while desiring to cut the political ties of Great Britain, desired to retain the common law as administered there, and the conceptions of property rights out of which it grew. An economic study of the Constitution reveals undoubtedly the fact that it was a triumph for the property class over the propertyless. It is well to keep this in mind in a study of our institutions and in a discussion of means whereby the desires of the people may be met. The residuum of power and the means to accomplish the end desired is inevitably found in the government of the respective States in the absence of radical constitutional amendment.

C. DIVERSITY OF LAW.

Formed as our Government was of the confederation of separated colonies, it began its national existence with a wide diversity of laws, which it had inherited from the period before 1776 as the result of the widely varying geographic, social, economic and political conditions of England and of America. The various colonies reserved the right to adapt or to apply the common law of England so as to bring it in harmony with the wants of American society.¹⁷ The laws by which the English Colonies were governed when they emerged from colonial conditions were:

¹⁷ Article by James F. Colby, "Necessity for Uniform State Laws." Forum, July, 1892, Vol. 13, 36.

1. Common law of England so far as they had tacitly adopted it as suited to their conditions, or expressly by statute at this or subsequent time.

2. The statutes of England or of Great Britain amendatory of common law which in like manner they had adopted, either tacitly or expressly.¹⁸

3. The Colonial statutes adopted by the legislative bodies of the Colonies themselves.

These, with the complex system of case law built up long ago, has produced a diversity which justifies not alone the popular description of it as legal chaos, and makes it even for experts "a wilderness of single incidents," but taxes the human capacity to even superficially read, not to speak of analyzing or understanding, them.¹⁹

As already has been said, much of this diversity was justified by the widely differing conditions between those existing in England and in the American Colonies, and between the conditions in the various Colonies themselves, which found a very natural and inevitable expression in the statute law, and the decisions of the courts of the various Colonies. Can it be said, however, that the conditions of today with reference to the industrial, commercial, social, or political life of the people are so different as to any longer justify even the diversity which then existed, not to speak of its constant ramifications since then, but has not the common life of the people become co-extensive with the territory of the United States so that a uniformity of its laws, if it can be brought about without imperiling the fundamental conceptions of its institutions, is not alone to be desired, but is imperative.

Professor Colby²⁰ has said that some fear:

"A systematic movement in the direction of uniformity may destroy the * * * individuality of the States;

¹⁸ *Illinois*, the State which I represent, adopts all English statutes enacted prior to fourth year of James 1st, with certain exceptions.

¹⁹ If anyone has any doubt about this, let him read a very illuminating address on this subject delivered some years ago before the Illinois State Bar Association by Professor Warren of Harvard University under the title of "The Welter of Decisions," *Illinois State Bar Association Report*, 1916; also *X Illinois Law Review*, 472.

See also address by Professor Samuel Williston, of Harvard, on Uniform Partnership Act before Law Association of Philadelphia, December 18, 1914.

²⁰ *Forum*, Vol. XIII, p. 36.

that even a self-imposed uniformity tends to centralization, and is opposed to the excellent principle of self-government."

This fear applies rather to Federal legislation or *unification*, which would break down the legislative boundaries between the States, and not to Uniformity of State legislation, especially if only matters of general concern are dealt with, and such statutes may be changed at will by the respective States. It may be said, however, that it is useless to attempt to bring about a uniformity between the States in order to express the National unity, for the law may be changed at will by the various State legislatures, which have "the natural fecundity of low organisms." However, this fecundity of legislation is checked by the desire to preserve the advantages of uniformity wherever secured, and once the attention of a given legislative body is called to the fact that a statute it has upon the books of a particular State is identical with like statutes in other States similarly situated it will be difficult to change it. The American Bar Association said in 1891:²¹

"The argument for greater legal unity lies in the national unity. Our people today in their business, contractual and commercial relations are one people. They are one in a unity such as never before existed in this or any other great country."

It is neither designed nor desired, as President Wilson, a former Commissioner from New Jersey, said when Governor of New Jersey before a convention of State Governors in Louisville, to have the diverse social institutions of widely separated communities in a great country like this reduced to a common level;²² it rather is desired to do away with that uncertainty of law, which Burke has described as the "essence of tyranny" because no man can know it and every man feels oppressed by the hopeless effort necessary either to become acquainted with it, or to attempt to obey its provisions. As we have before said, this is an argument, not for unification, but for uniformity of law. One of the advantages in attempting to cure this diversity—and no mean one—by uniformity secured through various State enactments rather than by unity secured through Federal legislation, is that it retains for the country much of the advantage of individual initiative, and so encourages progress which might be killed by com-

²¹ American Bar Association Reports, 1891.

²² See Law Notes, February, 1911, Vol. XIV, p. 205.

plete standardization, which is neither desirable nor likely to be achieved in any conceivable period of time. The local State Governments give the opportunity for experimental legislation where desired, which if it had to be adopted for the country as a whole might be either untried, with the result that much progressive legislation might fail, or which, because of the wide extent of territory and diversity of conditions sought to be controlled, might prove disastrous. The wide diversity also of this legislation because of its uncertainty necessarily constantly gives rise to litigation, and it should not be forgotten that interpretation in advance by legislation tending to make the law uniform and well-known throughout the country is both speedier and cheaper than litigation.²³

Mr. Jeremy Bentham delighted to call President Madison, to whom he sent his ambitious and impossible scheme for the unification of the law in the United States, but who declined to submit it to Congress, by the title of Mr. Eitherside. Whatever we may now think of the scheme of Bentham, certainly the diversity of laws now existing in the United States would fairly make possible such a designation of the average opinion with reference to any given question where more than one jurisdiction is involved.

V. Need for a Philosophy of Law.

What is needed in the United States is a scientific study by the Bar of our fundamental American institutions in the light of recent criticism in history, political science, sociology, economics and criminology; a development of a philosophy of the law familiar throughout the country; and a programme or continuing policy over a long period of time which shall bring about the specific results desired. Professor Roscoe Pound has written:²⁴

"Men have changed their views as to the relative importance of the individual and of society; but the common law has not * * *. We no longer hold that society exists entirely for the sake of the individual. We recognize that society is in some wise a co-worker in what he is and in what he does, and that what he does is

²³ See address on Uniform Negotiable Instruments Law by John C. Richberg, a former Commissioner from Illinois, before Illinois State Bankers Association, December 15, 1904.

²⁴ See Roscoe Pound, "Do We Need a Philosophy of Law?" Columbia Law Review, Vol. V, page 341. (May, 1905.)

quite as much wrought through him by society as wrought by himself alone. * * * We are not so much concerned with the liberty of each, limited only by the like liberties of all, as with the welfare of each, achieved through the welfare of the whole, whereby a wider and surer liberty is assured to him. The common law, however, is concerned, not with social righteousness, but with individual rights. It tries questions of the highest social import as mere private controversies. * * * And this compels a narrow and one sided view."

If this be true, and who may fairly deny it, it makes it all the more important that we should understand the tendencies of our law and attempt to, correctly embody them in legislation, trying any experiments first in some of the less populous States, then creating uniformity by passage of similar statutes throughout the Union.

a. REASONS FOR LACK OF IT.

There are many reasons why our people have not developed such a philosophy of law, too lengthy to go into at the present time. The average Anglo-American lawyer thinks that these conceptions adhere in nature, and for some reason the idea of universality does not appeal to him as it does to Continental jurists, or those accustomed to Latin system of jurisprudence.²⁵ He has a contempt for a philosophy of the law, and for general legal theories. Professor Pound tells us that Lord Esher thanked God that English law was not a science, and Professor Dicey tells us that "Jurisprudence stinks in the nostrils of the practicing barrister."²⁶ This is even more true in the United States where commerce is God, and the priests in the temple of Justice, too, become its devotees, judged oftentimes by like standards and with little or no time or inclination for studious pursuits, scientific investigations, or philosophical ideals. Due to this very spirit and to the lack of study which our problems therefore have had by men of the first ability familiar with the needs, the United States has lagged far behind other great countries in a proper development of uniform laws or commercial codes, a proper organization of courts, or a simple and reasonably understandable system of legal procedure, all of which would contribute much

²⁵ See article by Roscoe Pound, "Uniformity of Commercial Law on the American Continent," *Michigan Law Review*, December, 1909, Vol. VIII, p. 91.

²⁶ 5 *Law Magazine Review* (4th Series), 386.

to the expeditious transaction of business, once it could be brought about, to say nothing of its contribution to social justice or the effect it would have in giving a reasonable degree of law enforcement, the lack of which is a National, not merely a Chicago, scandal.

b. CODIFICATION.

By this I do not mean to advocate or favor codification, which in the general sense I believe to be thoroughly undesirable. But surely within the field of commercial law, and probably also within the field of certain other well recognized subjects having to do with the common life and desires of our people, uniformity is both feasible and desirable. A code, in the sense of a substitute for the common law and for its flexibility in dealing with commonly arising questions, as has already been pointed out, is not likely to come about in this country, and the failure of the New York codes to present a model of proper code making has put the period still further in the future than it otherwise would have been, and as I have already said, it is not likely to come about within any conceivable period of time, even though it might be desired. In any event, such general statements upon all subjects are more apt to appeal to the lay than the legal mind, and have been described as "the layman's panacea, and the lawyer's dragon."²⁷ Such codification as is here advocated in any event is of particular fields of the law based upon and incorporating the common law, capable of judicial interpretation and enlargement, and passed by the several States, not by the central Federal Government, and so capable, if necessary, of modification to meet the needs of the people of a particular locality, which power, however, should and would be exercised but sparingly in view of the patent advantages of a uniform statute.²⁸

c. UNIFORMITY, NOT UNIFICATION, OF LEGISLATION AND JUDICIAL INTERPRETATION.

And again let me call your attention to the distinction between uniformity here advocated and unification under Federal enactment, which might achieve efficiency, but would

²⁷ Jessie W. Lilienthal, 1 Harvard Law Review, 232.

²⁸ For an interesting discussion of further possibilities of uniformity, see: Article by John H. Wigmore, "The International Assimilation of Law—Its Needs and Its Possibilities from an American Standpoint," a paper read at the second Pan-American Scientific Congress at Washington, January 4, 1916, X Illinois Law Review, 385.

force all into a common mold and prevent further growth, and this uniformity calls not alone for uniformity of legislation, but in order to be effective also for uniformity of interpretation by judicial construction. In speaking of the question of uniformity Lord Chancellor Herschell, in 1894, said of the English Bills of Exchange Act:²⁹

"There is, I believe, a common agreement that the code embodying the law of 'negotiable instruments,' has been of great utility. It has given rise to very few questions requiring decisions by the courts, and it has put beyond controversy not a few that were in doubt. * * * A similar code for the United States will be, I think, a boon for the commercial community of both countries."

Judge Schofield has said that:³⁰

"It may be asserted with confidence that the best minds which have labored upon the common law have stood for its unity. In *Norrington v. Wright*, an action by an English merchant against a firm of American merchants upon a contract for the sale of and delivery of iron rails, Mr. Justice Gray gave the weight of his name to the statement that: 'a diversity in the law, as administered on the two sides of the Atlantic, concerning the interpretation and effect of commercial contracts of this kind is greatly to be deprecated.'³¹ If that be so, how much more is diversity in the common law as administered in the different States of the Union to be deprecated and avoided if reasonable means can be found to prevent it. * * * The great and controlling question, however, is not what cases, out of the mass of reported decisions, shall be accepted as authority, but in what manner the cases shall be studied and used. If they are habitually studied and used by the Courts and the Bar as illustrations, and valuable only for the principles embodied and applied in them, little danger will result from the increase in their number. * * * The time has come when this course must be adopted more generally and applied more vigorously if the law is not to be lost in the mere accumulation of cases."

²⁹ See article by Lyman D. Brewster, Feb. 1897, VI *Yale Law Journal*, 132.

³⁰ William Schofield, Apr., 1908, 21 *Harvard Law Review*, 416.

³¹ See 115 U. S., 1888; also Sir Frederick Pollock, "The Vocation of the Common Law."

What would tend to bring about more nearly this uniformity than the careful study by competent lawyers of the weight of authority on any questions or any given subjects in this country, and the embodiment of that interpretation in a uniform statute which shall be a legislative restatement of the law as a new basis for judicial interpretation carried out in a spirit of uniformity and controlled by the majority rule of interpretation in the courts of the respective States.

VI. Movements of Society from Diversity to Uniformity.

Uniformity of law has been a topic of interest from the early times of this country. This interest became acute as we passed from the canoe to the prairie schooner, to the stage-coach period, and from the stage-coach period to the railroad, and is becoming daily of ever increasing importance as the life of each State becomes more civilized and complex, and the laws necessary to meet the changed conditions become more complex and voluminous. We are now struggling with the problems of a motor vehicle age and no one knows what the development of an aeroplane civilization may bring us. The causes underlying the continuing interest in this subject have been present since the beginning of our Government; for uniformity of laws was the touch-stone, out of which grew the Constitution of the United States and our political institutions as we know them today.

Alexander Hamilton first aroused the interest of the country in uniform State laws, and in 1786, a convention was called at Annapolis to consider, "How far a uniform system in their commercial requirements would be necessary to their common interest and their permanent harmony."

Daniel Webster said this convention had "as its entire purpose to devise means for the uniform regulation of trade." But it resulted, nevertheless, in giving us the Constitution of the United States.

The rapid development of this country, unexpected and unprecedented; its mighty variety of interests; its diversity of views on many economic questions; the passage of laws in each of the States to meet the problems that have grown up there; all these things have made the question one of constant perplexity and ever widening difficulty, but which nevertheless has demanded some solution.

The theory of our Government, with its nicely adjusted balance between the Executive, Legislative and Judicial powers, and its sovereignty divided between the delegated powers

of the Federal Government, and the inherent powers of the State government, has proved a mighty bulwark to individual liberty and of contract and property rights. The legal theory has been that all local or domestic concerns should be controlled by the State, while matters of National concern were within the jurisdiction of the National Government.

The facts, however, have long been at war with this legal theory. So far as commerce has been concerned, State lines have been wiped out and the investor has sought to place his money where it would bring him the best return. This has resulted in vast aggregations of capital doing an interstate business, outside the power of the Federal Government to regulate, and beyond the power of the State governments to control.

Until comparatively recent years, the business interests have encouraged this condition of our law, because many of them believed that the lack of regulation was all to their advantage. To an extent this was true, however detrimental to the community as a whole not interested in such enterprises. But in the last decade there was a change of attitude and the great business interests are in favor of uniform state laws, as they came to see that it was the only way to avoid almost destructive conditions of diverse regulation by the different jurisdictions.

The right to individual competition, unlimited and unrestrained by law, is over; society now demands that the interests of society shall be made paramount and that the law shall conform itself to this later and broader view. With the interests of society and the desires of commerce both demanding uniformity, it would seem that rapid progress should be made.³²

³² See addresses by Nathan William MacChesney (1) "Uniform Laws—A Needed Protection to and Stimulus of Interstate Investments." National Association of Real Estate Exchanges, Denver, Colorado, July 19, 1911. (Published by the Association, Minneapolis, 1911.) (2) "State Sovereignty—Uniform Laws as a Means to Retain It." Address before the Tennessee State Bar Association, Nashville, Tennessee, June 12, 1914. (3) "Uniform State Laws, a Means to Efficiency Consistent with Democracy"—Address as President of the Illinois State Bar Association, 1916. (4) "Building Up the Effectiveness and Prestige of the States"—Address before the Fifteenth Conference of Governors, West Baden, Indiana, 1923. (5) "Uniform State Laws—Succor to the Public—Salvation for the Bar"—Address before the Iowa State Bar Association, Mason City, Iowa, 1923.

VII. Opportunities for Law to Follow Society.

This movement is of course possible of accomplishment in one of several ways, two of which are outstanding, namely,

First, Centralization or unification through the development of the powers of the general Government; or,

Second, Uniformity of State action.

1. TENDENCY TOWARDS CENTRALIZATION.

With reference to the remedy of centralization or unification, as has already been said, this might meet the desires of the business interests of the country, but would almost necessarily sacrifice in the long run the fundamental conceptions and safeguards of our democracy. This sacrifice, too, would be altogether useless, as the needs of business may be achieved consistent with the necessary safeguards through the development of uniformity of State legislation. I have already referred to the peculiar need of the maintenance of the State Government with independent and inherent powers in a democracy if the democratic ideal is to be preserved and Bureaucracy avoided. In societies where the pre-eminence of certain groups is asserted by them and recognized by others, a cohesive force can be opposed to any tendency on the part of the Government not desired; but in a democracy such as ours, where all are compressed to the common level, and when the superiority of none may be asserted and of none is acknowledged, the hopelessness of individual effort to stem a rising tide of centralization must be apparent to all students of the subject, and only the organized power of the respective States can hope with the growth of society to assert successfully the rights of the individual and his local community against the inevitable tendency toward centralization.³³

The dangers of and the remedy for this tendency have nowhere been better expressed than by Elihu Root before the National Civic Federation in 1909, when he said:³⁴

"The framework of our Government aimed to preserve at once the strength and protection of a great national

³³ For an enlightening discussion of this need, see De Tocqueville, "Democracy in America."

³⁴ Address by Elihu Root, "Importance of seeking reform through State Governments," delivered at Tenth Annual Dinner of National Civic Federation, Hotel Astor, New York November 23, 1909.

See also his address as President of the American Bar Association, Chicago, August 30, 1916—16th page—A. B. A. Proceedings, 1916.

power, and the blessing, and the freedom, and the personal independence, of local self-Government. It aimed to do that by preserving in the Constitution the sovereign powers of the separate States. Are we to reform the Constitution? If we do it as to insurance, we must do it as to a hundred and thousand other things. The interdependence of life wiping out State lines, the passing to and fro of men and merchandise, the intermingling of the people of all sections of our country without regard to State lines, are creating a situation in which from every quarter of the horizon come cries for Federal control of business, which is no longer confined within the limits of separate States. Are we to reform our Constitutional system so as to put in Federal hands the control of all business that passes over State lines? If we do, where is our local self-government? If we do, how is the central Government in Washington going to be able to discharge the duties that will be imposed upon it? Already the administration, already the judicial power, already the legislative branches of our government, are driven to the limit of their power to deal intelligently with the subjects that are before them. This country is too great, its population too numerous, its interest too vast and complicated already, to say nothing of the enormous increase that we can see before us in the future, to be governed as to the great range of our daily affairs from one central power in Washington. After all the ultimate object of all government is the home, the home where our people live and rear their children, with its individual independence, its freedom; and I am not willing, for the sake of facilitating transaction of any kind of business, to overturn limitations that have been set by the Constitution—wisely set—between the powers of the National and State governments. Great is our Nation. Let it exercise its Constitutional powers to the fullest limit, but do not let us in our anxiety for efficiency cast away, break down, reject, those limits which save to us the control of our homes, of our own domestic affairs, and of our local governments. For there, in the last analysis, under the protecting power of our great Nation, there must be formed the character of free, independent, liberty loving citizens, upon whom our Republic must depend for its perpetuity.”

2. POSSIBILITIES OF UNIFORMITY OF STATE ACTION.

We, necessarily then, are compelled to seriously consider and persistently urge the second of these suggested remedies, namely, that of uniformity of State legislation. What do we mean by this? President Seth Low said fifteen years ago now:³⁵

"Uniform legislation is the equivalent in legislation of standardization in mechanical construction. Formerly there were broad gauge railroads and railroads with a narrow gauge. Broad gauge railroads and narrow gauge railroads could not connect. At last the gauges of all railroads were standardized, that is to say, made uniform; and now the cars of every railroad can be used on the tracks of every other railroad and no one would think of returning to the old system. The broad gauge, as a mechanical proposition, had some advantages over the narrow gauge, but these were wholly insignificant compared with the advantages resulting from standardization; that is to say, from the uniformity of gauge. Differences in gauge did not make railroading impossible, but they did make it inconvenient, costly and slow. Similarly, differences in law relating to the common life of the people do not make the business impossible; but they do hamper business relations by causing inconvenience, expense, and delay."

Uniformity of State laws contemplates retaining the present control in the States, but having a similar law passed by each State,³⁶ and in order to continue the uniformity once achieved by legislation, the Courts would in accordance with its spirit not merely apply the provision of the uniform law in their respective States but would apply those provisions in the light of decisions upon similar questions under similar statutes rendered in the other States, following the rule of interpretation known as "the majority rule," in accordance with the provision of the various uniform acts themselves which have been prepared by the National Conference of Commissioners on Uniform State Laws, which states:

³⁵ Seth Low, President National Civic Federation, address at Conference January 17, 1910. 3 National Civic Federation Review, #9, page 2.

³⁶ See address by Nathan William MacChesney, "Uniform Laws," National Assn. Real Estate Exchanges, Denver, Colo., July 19, 1911 (supra). Also "Uniform State Laws—A Means to Efficiency Consistent with Democracy." (Supra.)

"This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it."³⁷

For many years much misgiving was expressed as to the value of any attempt to bring about uniformity of laws through legislation so long as diversity of interpretation existed, and many thought it futile to attempt it. The tendency for many years after certain of the uniform acts were prepared, was to follow decisions of the courts of a particular State upon a given subject rather than a general rule expressed in a given uniform statute, but as the purpose of uniformity has become more generally understood, there is a larger co-operation on the part of the Courts, and with the inclusion of the clause above quoted in some of the more recent acts, the co-operation of the Courts to effect the end intended has become general, and there is no longer any reason to believe that once legislative uniformity can be obtained, the Courts will not do their full share to continue it by uniformity of interpretation.³⁸

It is some years now, in 1916, since the United States Supreme Court in a strong opinion by Mr. Justice Hughes in the case of *Commercial National Bank v. Canal-Louisiana Bank*, gave the weight of its authority to this doctrine.³⁹

In reversing a case involving the Uniform Warehouse Receipts Act, where the lower Court had followed the decisions of its particular jurisdiction rather than the "majority opinion" under the Uniform Act with reference thereto, Mr. Justice Hughes said:

"We do not find it necessary to review these decisions.

It is apparent that if these uniform acts are construed in

³⁷ See paper read on Uniform State Laws before Social Science Association, by R. B. Anderson, October 17, 1915, page 5.

³⁸ The Committee on Uniformity of Judicial Decisions of the National Conference of Commissioners on Uniform State Laws gathers together the decisions which construe the various uniform laws, and furnishes references to the adjudications when requested. There is nothing spectacular in this work, but nothing can tend more to promote uniformity on the part of the Courts of the several States construing the uniform acts, and there is an increasing disposition on the part of all the courts to consider and conform to the decisions of other States. The work of this committee is educational, and is of growing importance. This information will be furnished promptly by the Secretary of the Conference upon application by any judge or other interested parties.

³⁹ *Commercial National Bank of New Orleans v. Canal-Louisiana Bank & Trust Co. et al.*, 239 U. S. 520, 60 Law Ed. 417.

the several States adopting them according to the former local views upon analogous subjects, we shall miss the desired uniformity and we shall erect upon the foundation of uniform language separate legal structures as distinct as were the former varying laws. It is to prevent this result that the Uniform Warehouse Receipts Act expressly provides (Section 57): 'This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.' This rule of construction requires that in order to accomplish the beneficent object of unifying, so far as this is possible under our dual system, the commercial law of the country, there should be taken into consideration the fundamental purpose of the uniform act, that it should not be regarded merely as an off-shoot of local law. The cardinal principle of the Act—which has been adopted in many States—is to give effect, within the limits stated, to the mercantile view of documents of title. There had been statutes in some of the States dealing with such documents, but there still remained diversity of legal rights under similar transactions. We think that the principle of the uniform act should have recognition to the exclusion of any inconsistent doctrine which may have previously obtained in any of the States enacting it."

Much harm may easily be done in the general movement for uniform state laws by urging for passage as a uniform law measures which have not been prepared by competent draftsmen, subjected to adequate discussion, or been tested by sufficient experience. Many enthusiasts attempt to make the Uniform State Law a convenient propaganda for new and untried reforms. The best informed believe that there should be no attempt made to make laws uniform until there has been at least some experimental legislation in some of the States, so that the uniform law may be based upon tried legislation somewhere.

VIII. Uniform State Laws Vital to Our Constitutional Government—Conclusion.

Legislation on every subject in this country is today the product of national thought and national agitation. This fact should be given due recognition, even though the subject matter of the legislation is supposed to be local. More and more every day the citizens of this country are coming to think in terms of the Nation. It was said in the time of

Washington that some of the people thought locally, and others thought continentally. It is not less true today, but those who have the National point of view are in the ascendancy now, and unless there is a determined effort to have the States unify their laws by consent, Nationally, along progressive lines, there will be a constantly increasing and determined effort to have the Federal Constitution so construed or amended as to give to Congress power to enact general laws on subjects of general concern, which shall be applicable to all the people wherever the power of the United States extends.

Commerce has outstripped and over-leaped the boundaries of the States long ago. The division of power between the State and the Nation is a wise and beneficent one, but the States, through Uniform State Laws applied to ever widening fields—public, commercial, social welfare, criminal—must either meet their responsibilities or lose still further their prestige and power.

The subject, however, is of wider interest and of deeper import than the mere needs of commerce. It concerns the continuance of our National ideals and the preservation of our fundamental democracy. And not only these, but what is even more important, it may help to regain our sense of National self-respect, sorely tried by our apparent impotency in the enforcement of our criminal laws.

Above any convenience of communications, facility of trade, certainty of contract, or advantage of industry, too, is the sense of our National unity. It was long ago said by Edmund Burke:

“It is with nations as with individuals. Nothing is so strong a tie of amity between nation and nation as correspondence in laws, customs, manners and habits of life. They have more than the force of treaties in themselves. They are obligations written in the heart.”

While common language, religious impulses, racial characteristics, national traditions, social customs, and the common law all promote national unity, surely law common to all sections of our country would not be least among these.

Through ever increasing attention to and interest in Uniformity of Law, then, let us seek to advance the efficiency of our Government, preserve its democracy, and achieve its National unity.

My address opened with a quotation from the Memorial Day Address of President Coolidge.⁴⁰ As I come to the close I would like to quote for you the closing paragraph of that address:

"Our gathering here today is in testimony of supreme obligation to those who have given most to make and preserve the Nation. They established it upon the dual system of State government and Federal Government, each supreme in its own sphere. But they left to the States the main powers and functions of determining the form and course of society. We have demonstrated in the time of war that under the Constitution we possess an indestructible Union. We must not fail to demonstrate in the time of peace that we are likewise determined to possess and maintain indestructible States. This policy can be greatly advanced by individual observance of the law. It can be strongly supplemented by a vigorous enforcement of the law. The war which established Memorial Day had for its main purpose the enforcement of the Constitution. The peace which followed that war rests upon the universal observance of the Constitution. This Union can only be preserved, the States can only be maintained, under a reign of national, local, and moral law, under the Constitution established by Washington, under the peace provided by Lincoln."

And now as I close my last address to you as your President I cannot let the occasion pass without expressing to you my very sincere appreciation of the high honor which you conferred upon me in your selection of me as your leader. It has been a considerable task which I am glad to resign, but the close association with you, my colleagues, in the carrying on of this work and the way in which it has enabled me to know you has made it worth the effort. I hope that you will feel that I have strengthened the organization, helped improve the quality of its work and increased its prestige and influence under my administration and that I pass on to my successor a stronger, more efficient and more powerful organization than when I accepted the task. I shall welcome return to the floor and the larger opportunity for closer study of the particular Acts under discussion from time to time and

⁴⁰ Address of President Coolidge at the Memorial Exercises, Arlington National Cemetery, Washington, D. C., May 30, 1925.

the closer association with you which that will now make possible.

I am going to close my last Annual Address by recalling to you the final paragraphs of my previous addresses to you as your President:

In 1923 I said:

"The real interests of reform do not call for the weakening of our constitutional structure, or the change of our constitutional government, but only for the effective working of each of the parts in accordance with the plans devised by our forefathers as laid down in the Constitution of the United States, and in the accomplishment of this purpose the National Conference of Commissioners on Uniform State Laws has played an important part, and is destined to a yet larger field of activity, influence and accomplishment."

In 1924 I said:

"The movement for Uniform State Laws is historically correct, traditionally true, economically sound, democratically American and Nationally efficient. Any movement, so organized and so based, may ultimately count upon adequate public support and the National Conference of Commissioners on Uniform State Laws, I am confident, will continue through the years to arouse ever increasing interest in and support of the movement for Uniform State Laws. In time we may count upon the public generally recognizing, as The President of the United States has stated, that our movement is not merely legally desirable, but is governmentally indispensable if our Nation, as we know it, is to continue to function in its historic form under the Constitution of the United States."

And in 1925 I say:

I renew my confession of faith in the importance of our work for Uniform State Laws and my belief in their effectiveness and vital function as an aid to constitutional government.

NATHAN WILLIAM MACCHESNEY,

President.

SUPPLEMENT
TO
ANNUAL ADDRESS
OF THE
PRESIDENT

NATHAN WILLIAM MACCHESNEY
OF ILLINOIS,

Being a report upon and a summary of the work of the various Sections and Committees and the recommendations of the President with reference thereto as required by Article VI of the Constitution and By-Laws of the National Conference of Commissioners on Uniform State Laws as

STANDING COMMITTEES.

A. Executive Committee.

Judge Jesse A. Miller of Iowa, the Chairman of the Executive Committee, will present a report of that Committee to this Annual Conference which reviews the work done at the various meetings of that Committee, including the one held in connection with the Mid-Year Meeting of the Sections at the Hotel La Salle in Chicago on February 25 and 26, 1925. Among the important items referred to in this report are:

1. The new power conferred upon the President of this Conference whenever any matter shall be referred to him by any Federal government department to forthwith create a new Committee under an appropriate Section without the delay usually incident in connection with the creation of a new Committee for the preparation of an Act. This will enable the President of the Conference in those cases where expedition is desirable to immediately appoint Committees without prior authorization of the Committee on Scope and Program or the Executive Committee.

2. The new developments in connection with the co-operation between the National Conference and the vari-

ous Federal departments evidenced by the creation of a Committee on Uniform Mechanics' Lien Act and a Committee on Uniform State Inheritance Tax Act and in the cooperation of this Conference in connection with the National Conference on Street and Highway Safety called under the auspices of the U. S. Department of Commerce.

3. The proposal of the Special Committee appointed by the Executive Committee with reference to the change in the form of the Committee on Scope and Program to make it an appointive Sub-Committee of the Executive Committee instead of an independent elective Committee as has heretofore been the case. This is one of the amendments, proposed by the Committee on Proposed Amendments of which Mr. George B. Young of Vermont is Chairman, intended to increase the effectiveness and expedite the work of the National Conference. While it is believed that the Committee on Scope and Program has done a useful work, it has not accomplished entirely the purpose for which it was created, namely, of making a study in advance of the fields into which the National Conference should enter but has rather confined itself to the passing upon the question at the time the question arises of whether or not the National Conference should take up a particular Act or Acts. In view of this changed function of the Committee on Scope and Program as worked out in practice, it is believed that such a Committee can better function when brought into closer relationship with the Executive Committee which is primarily responsible for the conduct of the affairs of the National Conference.

4. The matter of the conflict between the work of the National Conference and the Committee on Trade, Commerce and Commercial Law of the American Bar Association. As a result of the request of the Executive Committee the President of the National Conference and Mr. Young, as Chairman of our Committee on Cooperation, took this matter up with the Executive Committee of the American Bar Association appearing before the Executive Committee meeting of the American Bar Association held at The Association of the Bar of the City of New York last April. As a result of this action the Executive Committee of the American Bar Association appointed a Special Committee which held a hearing in Chicago in

June at which time the President of the National Conference appeared before that Committee and fully outlined the various conflicts which had occurred and the reasons for them and suggested remedies to aid in preventing such conflicts occurring in the future. It is believed that the discussion of this matter has been helpful and it is to be hoped that upon a report of the Committee appointed by the Executive Committee of the American Bar Association that such conflicts may be avoided in the future. Certain it is, considering the fact that the President of this Conference is *ex-officio*, the Committee on Uniform State Laws of the American Bar Association that some plan should be worked out whereby two Committees of the American Bar Association should not be put in the position of expending money and effort upon similar measures upon the same matter only to present conflicting views to the Association and to the public with reference to important questions. This is a matter of first importance not only to the National Conference but to the American Bar Association as well.

5. Uniform Arbitration Act and the policy to be pursued under the resolution of the American Bar Association under date of July 9, 1924.

We will have before us at this Conference the report of our Committee on a Uniform Arbitration Act which again raises a question of conflict between the views of the American Bar Association and those of the National Conference upon this subject taken up at the request of the American Bar Association as hereafter discussed. It is hoped that some plan may be worked out whereby this conflict may be eliminated, with due regard to the seriousness of the questions involved and the real conflict which exists between the different views, so that final action may be taken at this Annual Conference which shall meet with the approval of and secure endorsement by the American Bar Association.

6. Sub-Committee on Proposed Amendments to Constitution and By-Laws.

The Executive Committee at its meeting in Chicago last February appointed a special Committee on Proposed Amendments to the Constitution and By-Laws of the Conference with Mr. George B. Young of Vermont, as Chairman. Mr. Young is presenting to the Executive

Committee, in connection with this Conference his recommendations as a result of such appointment which involve a number of important matters, among them the change of the form of appointment and personnel of the Committee on Scope and Program as has already been discussed; the definite recognition in the Constitution of our present Section organization which was created a year ago and which is believed to have already fully demonstrated its usefulness; in the number of states required for the final adoption of our Acts; a provision for an Executive Secretary and Permanent Headquarters; a provision giving the power to the President to fill all vacancies in Committees, elective as well as appointive, when they occur; and a changed plan of Committee reports to conform to our present Section organization. I desire to call particular attention to this last amendment which I believe will materially increase the efficiency of our work by placing definite responsibility in the Chairman of each Section to see that the Committees under him are carrying out the instructions of the National Conference, and to summarize and present the results of the work of his Section as a whole for the benefit of the National Conference. These Section and Committee reports should then not only be made available to the Secretary in sufficient time for distribution to the members of the National Conference but to the President as well if he is to have a reasonable opportunity to carry out his obligations under the Constitution and By-Laws to report upon and summarize the work of the various Sections and Committees for the preceding year and make his recommendations with respect thereto.

It will be remembered that last year upon objection being raised from the floor because the Acts had not been sent out in advance of the meeting in accordance with the Constitution and By-Laws of the American Bar Association that the American Bar Association refused to consider our recommendation for the endorsement of the Uniform Arbitration Act. This objection was probably technically correct though it had never before been raised with reference to the report of a Section of the American Bar Association or the National Conference. As a result of this action Mr. Young as Chairman of the Committee on Cooperation and your President appeared before the Executive Committee of the American Bar Association

at the meeting of The Association of the Bar of the City of New York in April and presented the objections to applying such a rule to any Section of the American Bar Association or to the National Conference and as a result the Executive Committee has recommended certain changes in their By-Laws which will prevent this action being taken in the future and which will enable us to have considered at the sessions of the American Bar Association immediately following the adjournment of our National Conference any Acts then approved. This is of peculiar importance in connection with expeditious action in matters taken up by us in connection with the request by departments of the Federal government as will hereafter be explained.

A careful consideration and favorable action on this report by the Executive Committee of the National Conference is recommended.

B. Scope and Program.

No report available.

C. Educational and Publicity.

No report available.

D. Legislative.

The Legislative Committee has given the matter of the adoption of our Acts constant attention again this year as it has heretofore. The Chairman of the Committee, Mr. John H. Voorhees of South Dakota, who has been most effective in these matters has stated that he regrets that there are not nearly so many adoptions of Uniform Acts this year as he had hoped and that the record is not so good as it was two years ago when the same number of legislatures were in session as were in session this year. The situation in many of the states has been, however, more or less unusual and in a number of states has been such because of political and other complications as to make it practically useless to attempt to secure in those states the passage of further Uniform State Laws. The report of the Legislative Committee shows that there have been thirteen adoptions of Uniform Acts and five adoptions of amendments since the last Annual Conference as follows:

Aeronautics Act—Idaho, South Dakota.

Conditional Sales Act—Pennsylvania, West Virginia.

Declaratory Judgments Act—South Dakota, Utah.

Fiduciaries Act—Idaho, Utah, Wisconsin.

Fraudulent Conveyance Act—New York, Utah.
Illegitimacy Act—New York.
Limited Partnership Act—South Dakota.
Amendments to Sales Act—Ohio, Wisconsin.
Stock Transfer Act—Re-enacted in Tennessee to cure
defect in title as adopted in 1917.
Amendments to Warehouse Receipts Act—Idaho, Ohio,
Wisconsin.

The Chairman of the Legislative Committee, in addition to the report which has been sent to the members of the Conference, has prepared a supplemental report covering in detail the Legislative experience with reference to all of our Acts in the various state legislatures this last year and I request that the permission of the Conference be given him to read this valuable report in full in order that all of the members of the National Conference may be aware of the amount of work which has been done in the promotion of the passage of our Acts and the difficulties which have been met in connection with the promotion of the passage of them, believing that the experience will be helpful to all of our Commissioners in helping solve what is one of the most important aspects of our work, namely, the adoption of our Uniform Acts when once they have been approved. While the number of adoptions this year has not met the expectations of the Chairman of the Legislative Committee there is no reason for discouragement on the part of the members of this Conference for the number of adoptions compares favorably with the average of adoptions in former years and I agree with the Chairman of the Legislative Committee that steady progress is being made in the favorable reception accorded the results of the work of this Conference.

In this connection the Chairman of the Legislative Committee has also prepared and submitted to the Executive Committee of this Conference a report made to it at its request with reference to the best method to be followed in increasing the number of our legislative enactments. Presumably this report will be considered by the Executive Committee during this Conference and its recommendations reported to the Annual Conference for action. Mr. Voorhees in this report after stating the difficulties met and the various remedies which might be adopted specifically recommends to the Executive Committee that either it or the National Conference shall present a petition to the Executive Committee of the American Bar Association requesting the appointment

of a special committee by that Association in each state to be responsible for the promotion of the passage of Acts endorsed by the American Bar Association which would, of course, include the Uniform Acts recommended by the National Conference to and endorsed by the American Bar Association. This proposal is worthy of serious consideration and I recommend the presentation of a petition along the lines suggested by Mr. Voorhees and the adoption of some such plan by the American Bar Association.

E. Appointment of and Attendance by Commissioners.

The report of this Committee, of which Mr. W. O. Hart of Louisiana, is Chairman, giving a detailed list of changes and reappointments as a result of the indefatigable work of the Chairman of this Committee has already been made available to members of the Conference. The report points out the continuing absence of the Commissioners from Alaska, Hawaii, New Hampshire, North Carolina, Oklahoma, Oregon and the Philippine Islands, and the fact that the Governors of these jurisdictions have been notified of the absence of their appointees in accordance with our Constitution. The continued absence of Commissioners from a certain few states or the refusal of the Commissioners in a few of the states to cooperate in the work of the Conference raises a question which should be promptly, fairly, but vigorously, met by the National Conference itself and if the situation in a given state is not handled by the Governor in such a way as to give us Commissioners who are to take an active and continuing interest in our work it would seem to be only a reasonable respect by the Commissioners for their own body, for the National Conference to take the matter in hand itself and insist upon attendance in the absence of a legitimate excuse of some representative of each state, failing which the representatives from such state should be deprived of membership in the National Conference by appropriate action and the State Bar Associations from each state or states requested to fill their places. There are also vacancies in six states in the Conference and some method should be found to secure appointment by the Governors of those states, failing which action should be secured by the State Bar Associations involved.

Due presumably to the lateness of the appointment Illinois is listed among those states in which there has been no change in Commissioners. May I be permitted to say, how-

ever, that I am happy to report that two of my colleagues from Illinois, Messrs. Freund and Graham, have been reappointed, though we have unfortunately lost from our Commission Messrs. Thompson and Wigmore, whose places have been filled with Messrs. C. M. Clay Buntain of Kankakee, Illinois, a former President of our Illinois State Bar Association, and Oliver A. Harker of Champaign, Illinois, former Justice of our Appellate Court and former Dean of the University of Illinois Law School as well as a former President of the Illinois State Bar Association, for whom I bespeak a cordial reception by the National Conference.

The report shows, corrected as above, that there have been no changes in Commissioners in thirty-four states. Commissioners have been reappointed or new Commissioners named in twenty states.

GENERAL COMMITTEES.

I. Legislative Drafting.

No report available.

II. Uniformity of Judicial Decisions

The work imposed upon this Committee, of which Mr. William M. Hargest of Pennsylvania is Chairman, is probably as important and onerous as any work done by any Committee under the auspices of the National Conference. We have been peculiarly fortunate in connection with this work in having men who are capable of and willing to do the necessary work to make it effective. I desire to call particular attention to the Reference Tables submitted in connection with the report of this Committee which were compiled as a result of the request made that the Committee undertake this work. This Table shows the sections of the Uniform Acts as adopted in each state as compared with the sections of the original Acts and represents a very large amount of hard, painstaking and accurate work. It is the hope of the Committee and the belief of the Conference that the publication of these Reference Tables will facilitate and encourage the citing by the courts of last resort the sections of the Uniform Acts as numbered in the original Acts as well as the sections as they appear in the Statute Books of their respective States. This Committee reports continued progress in completing the annotations since the date of the last list of Chairman Charles Thaddeus Terry and states that

the present report includes all of the citations of all of our Acts to March 1, 1925, except the Uniform Negotiable Instruments Act, the citations of which are so voluminous that the Committee has not been able to complete the citations up to date. The Committee makes one very important recommendation which in my judgment before its adoption should be given very serious consideration by the National Conference. It calls attention to the very useful work being done by the Edward Thompson Company in publishing Uniform Laws Annotated, the last Supplement containing the decisions up to July 1, 1924, in which under the title "Case Notes" it groups the decisions under each section of the Uniform Law and where the cases do not cite the sections but apply the law the note reads:

"No reference to Uniform Act".

The Committee states

"In view of this comprehensive work the Committee feels that it is a duplication of effort for this Committee to keep up these citations without the same facilities for properly doing the work. The Committee, therefore, recommends that this portion of its duties should not be continued. * * *"

Much as the National Conference is indebted to the Edward Thompson Company for the very effective work it has been doing in connection with the Uniform Law movement there would seem to be some question as to whether or not the National Conference should cease to have this material as a part of its own records and should allow this work to be continued exclusively under the auspices of a private concern. It would seem that there is some advantage to having this information prepared under our own auspices and sent out to the Bar and courts of the respective states for their information with the hope that it will result in a continually increasing frequency and accuracy in the citation of the various Uniform Acts.

III. Cooperation With Other Organizations Interested in Uniform State Laws.

This Committee, with Mr. George B. Young of Vermont as Chairman, during the past year has been unusually active and as shown by its report has been in contact with twenty-four national organizations, a list of which is given, interested in various aspects of uniform legislation. The views expressed by some of these organizations are also quoted and

are of interest in reflecting the extent and nature of the cooperation to be expected. It calls attention to the help of and the cordial relationship existing between the Chamber of Commerce of the United State of America and this Conference and it is believed that an increased relationship in this direction will result not only in greatly facilitating the gathering of the facts necessary to the drafting of our Acts but also in securing the passage of them after they have been drafted and adopted by the National Conference. The report also calls attention to the relationship of the National Conference of Commissioners on Uniform State Laws to the National Conference on Street and Highway Safety called by Secretary of Commerce Hoover and to the extent to which the National Conference of Commissioners on Uniform State Laws has been recognized in this connection by Secretary Hoover. Mr. Young is Chairman of the Sub-Committee on Drafting created under the auspices of this organization and has in charge for the National Conference on Street and Highway Safety the preparation of the Act to be presented at a further meeting of that Conference. The most complete cooperation exists between his Committee and the Committee of this Conference on the Uniform Act Governing the Use of Highways by Vehicles, the exact relationships of which I will hereafter discuss in connection with that Act.

IV. Cooperation With American Law Institute.

No report available.

SECTIONS AND SPECIAL COMMITTEES ON UNIFORM ACTS.

A. Uniform Commercial Acts Section.

The reports of the various Committees of this Section, of which Mr. John Hinkley of Maryland is Chairman, are consolidated in a Section report and is the only Section report which is made in this way and which is the method which I have recommended above in connection with all of our Section reports next year, except that I believe the Committee reports should be made separately in connection with the re-

port of each of the Chairman of the particular committee concerned and that the consolidated summary should be made by the Chairman of the Section as such. The report of the Section deals with the various Acts covered by its respective Committees as follows:

I. Uniform Sale of Securities Act.

Mr. Hinkley, the Chairman of the Section, is also Chairman of this Committee. The Committee only reports progress during the past year as it states

"An important feature of the Act is still unsettled, namely, the provision for prompt action by the State Securities Commission in case of certain special classes of securities which are obviously entitled to be sold without the necessity of complying with burdensome formalities. This difficulty will result in the Committee not presenting to the Conference a draft of the Act this year, though every effort will be made to arrive at a solution of this difficult provision."

It then discusses the various solutions suggested and the organizations which are cooperating with the Committee in endeavoring to reach a solution. I had been greatly in hopes that this Committee would be able to agree on a draft so that the Committee would be justified in presenting an Act for final consideration at this Conference, and regard it as highly important that it should do so at an early date but the method being pursued by the Committee in working in close cooperation with the principal business interests and public officials affected is the only one which will produce permanently desirable or satisfactory results.

II. Uniform State Trade-Mark Act.

No mention is made of this matter in the report of the Section. There is nothing further to be done with it at the present time. I covered this matter in my report to the American Bar Association in Philadelphia last year as follows:

This is a matter which was referred to the National Conference by the American Bar Association upon recommendation of its Committee on Uniform State Trade-Mark Law. The Committee on Uniform Commercial Acts of the National Conference reported

that in its judgment it would not be advisable to attempt to frame a Uniform State Trade-Mark Act until the Federal legislation has been revised, as contemplated by the bill approved by the American Bar Association for introduction in Congress. The Committee stated:

"The Uniform State Act when framed will cover only a very limited field and it seems to your Committee that it should wait until the proposed law was passed and the Uniform State Trade-Mark Law should be framed so as to be in entire harmony with the Federal Law after its adoption."

The National Conference stated that the Chairman of the American Bar Association Committee, Mr. Edward S. Rogers, of Chicago, concurred in this opinion, though believing that the various State laws are urgently in need of revision, and recommended that further action on its part on the proposed Uniform State Trade-mark Act be deferred until the Federal revision takes place, in accordance with the bill approved by the American Bar Association. The National Conference therefore adopted the report of its Committee and the matter was re-referred to it for continuing consideration, conference with the Committee of the American Bar Association upon the subject, and a further presentation of the subject at an appropriate time when the Federal revision, hereinbefore referred to, has taken place.

III. Uniform Trust Receipts Act.

Mr. John R. Hardin of New Jersey is Chairman of this Committee. The report states that the Section had with them at the time of the meeting in Chicago in February, Professor Karl N. Llewellyn of Yale University Law School, who is the draftsman of the first tentative draft which is submitted as an appendix to the report of the Committee.

IV. Uniform Written Obligations Act.

Mr. Thomas A. Jenckes of Rhode Island, is Chairman of this Committee.

V. Uniform Interparty Agreement Act.

Mr. Earle W. Evans of Kansas, is Chairman of this Committee.

VI. Uniform Joint Obligations Act.

Mr. Samuel Williston of Massachusetts, is Chairman of this Committee.

These three matters are taken up together in the Committee report as they were submitted by the American Law Institute to the Conference and referred to this Committee. In accordance with the action of the Conference the Committee states that very careful consideration has been given to them and that they are submitting for consideration and approval of the Conference, second tentative drafts of each of them with notes thereon by Mr. Williston.

B. Uniform Property Acts Section.

Mr. W. F. Bruell of South Dakota, is Chairman of this Section. I have before me the reports of the Committees on Uniform Property Acts with the exception of the Committee on Uniform Law Relating to Corpus and Income which is not available, but the programme shows there is to be submitted a draft of this Act for consideration at this Conference. The Committee on Uniform [Real Estate] Mortgage Act has prepared a very valuable report the contents of which I have discussed in detail with the Chairman, Mr. Child, and shall discuss it hereafter and I believe that the report on the Chattel Mortgage Act is also to be made at this Conference. The programme shows that the reports on the Uniform [Real Estate] Mortgage Act and the Uniform Chattel Mortgage Act are to be presented in connection with drafts to be submitted for discussion and action. These reports so far as they have been available for my examination are as follows:

I. Uniform Property Acts:

1. Uniform Acknowledgment of Instruments Act.

Judge William Hunter of Florida, the Chairman of this Committee, presents a tentative draft differing in a number of particulars from prior drafts presented and asks for its adoption.

2. Uniform Real Property Acts.

Mr. Randolph Barton, Jr. of Maryland, Chairman of this Committee, in submitting an Act for consideration at this Conference publishes in the report of his Committee a letter with reference to the matter addressed to the various members of the Committee and raises a question as to what and how this matter should be undertaken. Particular attention is

called to his discussion of the report of the Special Judiciary Committee of the American Title Association, of which Mr. Charles C. White of the Land Title and Trust Company of Cleveland, Ohio, is Chairman, in connection with which he recommends

“Without in any sense committing myself, and fully expecting that fuller thought may greatly modify my present extremely nebulous views, I suggest as an illustration of the general mode of procedure that I propose, the following:

“Proposals Nos. 1, 4, 5, 12 and 15 shall not be considered at this time.

“Proposal No. 9 is covered by the Committee of our Section of which Mr. Hunter is Chairman.

“Proposals Nos. 6 and 7 are in effect covered by the work of the present committee on Uniform [Real Estate] Mortgage Law, of which Mr. Child is Chairman.

“Proposals 2, 3, 8, 10, 13 and 14 might be given serious consideration.”

Mr. Barton calls attention to a statement by me that the Conference has practically decided to get behind the proposals referred to above. I do not now know just where that report may have been made, but in any event it was only intended to mean that the American Title Association could count on our cooperation in the serious consideration of our proposals and our support of those which might be capable of being drafted in the form of Uniform Acts and adopted by our Conference in the usual way. It seems to me that Mr. Barton has suggested in this connection a proper form of procedure for as he has said in his report not to take the work which has already been done by that association for the basis of our own consideration would involve the employment of someone practically giving his whole time to investigations and for which at this time there are no funds available in the Conference.

3. Uniform Federal Tax Lien Registration Act.

This Committee with Mr. W. H. Washington of Tennessee, as Chairman, has been endeavoring to present a draft of an Act intended to meet under the

Federal Statute the question of secret liens by the Government which so long occupied the attention of the American Bar until the Federal Statute was passed which provides that in states which have provided by appropriate legislation for the recording of such liens that any such liens shall not be valid unless notice shall be filed in the office of the proper official within the County within which the property subject to the lien is situated. With a view to providing the appropriate legislation, the Act submitted has been drafted and complements and completes the Federal legislation secured as a result of the work done under the auspices of a Committee of the American Bar Association.

4. Uniform Law Relating to Corpus and Income.
No report available.

II. Uniform [Real Estate] Mortgage Act.

Mr. S. R. Child of Minnesota, is Chairman of this Committee. There is probably no Act now pending before this Conference which it is as important to complete and send out to the country as the Uniform [Real Estate] Mortgage Act and I am greatly in hopes that the Conference at this time will be able to reach a final agreement upon the draft to be presented so as to adopt it, sending it forward to the American Bar Association for endorsement and to the various legislatures for passage.

The draft of this Act was originally made at the request of the National Association of Real Estate Boards, and notwithstanding considerable pressure to the contrary, it has refused to go ahead independently with the drafting of such an Act but has continued to cooperate with this Conference in the matter. The statement in the report of this Committee therefore that the organized real estate interests of this country for which I am General Counsel have given no assistance or support to the Committee is incorrect. The facts are that they initiated the movement for this Act in this Conference, as heretofore stated, have given it substantial support in the past, instructed me as their General Counsel to press the matter which I have done as the Conference knows, and passed a resolution in favor of a Uniform Act which was circulated under the auspices of this Committee.

Without the untiring labor of Mr. Child in the gathering of the material and the prosecution of this work and the scholarly and effective cooperation of Mr. Bridgman, the Act could not have been brought to its present state. There are still some matters to be discussed by the Conference in connection with it but it is believed that on the whole, as the result of the discussion last years, that common agreement has been reached in the discussion of essential matters and that it should be possible during the time allotted to this Act at the present Conference to secure final action. I urgently recommend that the National Conference devote itself to the consideration of the Act to that end.

To show the increasing consideration being given to the work of this Conference it is interesting in this connection to call your attention to a very able 45-page article by Professor Edgar Noble Durfee and Mr. Delmer W. Doddridge of the University of Michigan, on "Redemption from Foreclosure Sale—The Uniform Mortgage Act" in the Michigan Law Review for June, 1925. This article submits certain proposals with the object of encouraging bidding at a foreclosure sale

"by making redemption more inviting to the redemptioners and therefore more imminent to the bidders, and by making the effect of redemption upon the bidders more drastic. We submit that our proposals fully observe the natural equities among the various interested parties. And we submit that they leave the minimum of doubt as to the effect of a redemption, either upon the title to the land or the debts owed to lienors."

These suggestions have already received the serious consideration of our Committee and should be given the serious consideration of this Conference before final action is taken. The article assumes that the Conference is authority upon the subject and publishes as an appendix the fourth tentative draft of the Uniform Mortgage Act. The article in closing states with reference to the proposals made which in fact are novel and not based upon practical experience under present statutes;

"If it be objected that our proposal is wholly novel and that it is the function of the Uniform Act merely to codify existing law, changing it only in so far as

is necessary to remove conflicting rules, we would answer that codification in a strict sense is impossible in a field which presents so many conflicting views as that before us. We also believe that the objection is less forceful when the existing law is wholly statutory and half our states have no such law. And we understand that the commissioners have more and more abandoned the strict ideal of codification and are now entering with some freedom upon the beneficent work of law improvement."

This point of view is at least worthy of the careful consideration of this Conference, whether the particular proposals are or are not adopted.

The report states,

"The March Harvard Law Review contained a 10-page review and friendly criticism of the act by Allen E. Throop, editor. The article was headed 'Another Step Towards Progressive Legislation,' and closed with the statement:

"The proposed Act not only makes for uniformity; it promotes brevity and certainty in mortgage instruments, simplicity of procedure, and validity of title. It enables the mortgagee to realize readily on his security; yet it protects the mortgagor against forfeiture. It relieves court congestion and shortens registry records. It has been carefully drawn and has for four years been subjected to thorough consideration and correction. Its substantial features have received the commendation of the National Association of Real Estate Boards, representing some seventeen thousand firms or individuals. Upon its undoubted approval at the Conference of Commissioners in 1925, the Act should receive prompt and favorable legislative attention.'

"The review was clear and discriminating; and some of the suggested changes have been accepted. It referred to the committee reports to the Conference as authoritative, as have other discussions of the Act."

The report reviews in detail in an illuminative way just what the Act as proposed would accomplish, makes an interesting comparison between what is required upon foreclosure under the proposed Uniform [Real Estate]

Mortgage Act and under foreclosure by suit as now existing in twenty-eight states, and reviews the diversity of the Mortgage Foreclosure Laws throughout the country. I wish that I might review for you the various matters discussed in this report but I urge that you read the report carefully and give each of the statements with reference to the provisions of the proposed Act your careful consideration. While I have not time nor space and it is unnecessary to repeat the statements of the report here as to what the Uniform [Real Estate] Mortgage Act will accomplish, I do desire to call your particular attention to the statement in the report intended to meet a certain confusion which has heretofore existed with reference to the scope of the Act, which statement is as follows:

"What the Act Does Not Do. The Act does not cover generally the substantive law of mortgages.

"It does not interfere with or prohibit the foreclosure of any mortgage by suit in equity or otherwise by court proceedings, except as to the redemption features provided in section 36.

"It does not provide for foreclosure by power of sale of mortgages not containing a power of sale. (Sec. 13.)

"It does not permit a power of sale in a mortgage or in a trust mortgage, to be exercised in any manner except as provided by the Act. (Sec. 13.)"

I again urge that this Uniform [Real Estate] Mortgage Act be adopted at this Conference and that the necessary time be devoted to it with that end in view.

III. Uniform Chattel Mortgage Act.

No report available.

C. Uniform Social Welfare Acts Section.

Mr. Walter C. Clephane of Washington, D. C., is Chairman of this Section. Of the Committees under this Section there are reports available to me of the Uniform Child Labor Act and the Uniform Drug Act, but not of the other Committees. The programme, however, shows that the Committee on a Uniform Act for One Day's Rest in Seven has a draft for consideration at this Conference, while the Committees on a Uniform Act for Joint Parental Guardianship of Children, Uniform Sanitary Bedding Act and Uniform Marriage and Divorce Acts will not present any drafts for consideration.

I. Uniform Child Labor Act.

This Committee, under the Chairmanship of Mr. Walter C. Clephane of Washington, D. C., who has been familiar with this legislation from the beginning, has undertaken as a result of the request of the Executive Committee a revision of the Uniform Child Labor Law approved by this Conference in 1911 and heretofore adopted in four jurisdictions. There has been a very considerable experience since the drafting of the original Act and it seemed in the judgment of the Executive Committee that a new draft should be prepared, particularly in view of the fact that as a result of the holding unconstitutional by the Supreme Court of the United States of two particular Acts and the failure so far to adopt a constitutional amendment giving the Government power to deal with the question that State legislation on this subject will become of increasing importance. The Committee in its report calls attention to the fact that in the Act as redrafted it is proposed to apply the law to agricultural labor as well as to classes of industry heretofore covered. The Committee also calls attention to a note discussing in detail the reasons for this inclusion but states that the services performed by a minor in or about the residence of his family or on the farm connected with such residence is not embraced within the prohibitions of the Act.

The age of the minor in the new Act for gainful occupations is fixed at fourteen years with certain exceptions and definite limitations fixed upon the hours and time of labor. It provides that the evidence of physical fitness shall be based upon examination by a *public* health officer; that the name and address of the prospective employer, and the specific occupation in which the children are to engage must be stated in the Employment Certificate and in addition to the above matters the Committee calls particular attention to the fact that this Act differs from that approved by the Conference in the following particulars:

"Agricultural pursuits are included in the prohibited occupations.

"The presence of minors in the places where the prohibited occupations are carried on is made prima facie evidence of employment therein. * * *

"The parent, guardian or custodian, must attend before the issuing officer before the permit can be issued.

"More satisfactory requirements as to evidence of birth are insisted upon; and birth and baptismal certificates when accepted as evidence of age must have been recorded at least ten years before the application for the permit.

"The requirement that the physical examination shall be conducted by two physicians is modified so as to make one sufficient.

"If the age given in the employment certificate is subsequently found to be incorrect, the certificate of employment is to be revoked. If the physical examination shall indicate that the child is not able to engage in work generally, the physician may certify him as competent to engage in special limited occupations.

"The educational requirements are raised from the fifth grade to the eighth grade.

"In order to assist the school authorities in the enforcement of truancy acts the employer is required to certify the time of the commencement of the child's employment and to return the child's employment certificate on termination of employment.

"If the physical or moral well being of the infant is being injuriously affected by the employment, the employment certificate may be revoked. In order to determine whether the employment is injurious or not, periodical physical examinations are provided for.

"A civil remedy for the collection of penalties is provided in addition to the criminal penalties."

The Committee also calls attention to the fact that in a few of our States no permit to labor may be issued unless the condition of the child or family is deemed necessitous but that the Committee has not deemed it wise to take up this measure. It believes that many children who are physically and mentally qualified may better their position by judicious occupation irrespective of any financial necessity therefor. It is believed that this is a wise decision as there are many instances where children who do not necessarily have to work or whose

families would not feel that they could properly make such a showing would nevertheless be much better off under certain conditions to be put to work.

The draft submitted is on the programme for consideration at this Conference.

II. Uniform Drug Act.

The Conference has had a Committee on this subject for many years, but heretofore has not been able to agree upon the form of an Act to be presented for its consideration. The present Committee, under the Chairmanship of Mr. Charles R. Hollingsworth of Utah, has prepared and will present for consideration at this Conference the draft of an Act which has been prepared in conference with the Bureau of Legal Medicine and Legislation of the American Medical Association. The Committee has had the benefit of the suggestions and criticism of Dr. William C. Woodward, Executive Secretary of that Bureau and says:

"The zeal of the American Medical Association in urging the adoption of the Uniform State Law can not be sufficiently praised and we urge earnest cooperation between that Association and our Conference."

The Committee calls attention to the fact that the draft submitted has used as the basis largely the New York Act, which was drafted in accordance with the plan agreed upon between the various Associations interested in 1922.

The Act submitted, as well as the New York Act, is designed along the lines of the Federal Narcotic Drug Law, known as the Harrison Act, with certain changes to meet certain local State conditions. In the draft submitted, attention is called to the fact that there is no provision for the supervision and control of the addict, which some people believe is an important part of any legislation of this kind, but the Committee is of the opinion that it is unwise to incorporate in a proposed Uniform Act provisions for the supervision and control of the addict, stating that any State desiring to do so can provide for the same by a separate Act. It is true that a separate Act might well provide for the control of the addict, but it is believed that if it is not to be included in the Act submitted proper provision with reference to the

addict, at least there should be submitted as a complementary Act to be adopted by those States which desire to do so a draft of adequate legislation for that purpose.

It is understood that there has been some criticism of the title of our Committee and Act as submitted by the National drug interests, who believe that any Act dealing with the subject should refer to it as a Narcotic Drug Law in similar fashion to the term used by the Federal Act, and it is recommended that in general conformity with Federal legislation on the subject and to avoid prejudice against the Act when adopted that this change in the name of the Committee and title of the Act be made by this Conference.

III. Uniform Act for One Day's Rest in Seven.

No report available.

IV. Uniform Act for Joint Parental Guardianship of Children.

No report available.

V. Uniform Sanitary Bedding Act.

No report available.

VI. Uniform Marriage and Divorce Acts.

No report available.

D. Uniform Public Law Section.

Senator Chester I. Long of Kansas, is Chairman of this Section. Of the Committees on Uniform Public Law Acts under this Section, I have available only the report of the Committees on Uniform Primary Act for Federal Officers and the Uniform Act Governing the Use of Highways by Vehicles but the programme shows that the report of the Committee on Uniform Public Utilities Act with a draft of an Act attached is to be presented for discussion at this Conference. The report of the Committee on Uniform Act for Compacts and Agreements between States is not available, while the Committee on Uniform Aeronautics Act has reported with reference to certain matters referred to it as hereinafter discussed.

I. Uniform Public Law Acts:

1. Uniform Act for a Tribunal to Determine Industrial Disputes.

While no report of this Committee is available to me at this time I think presumably such report when made will not go further than report upon the present situation as a result of the Supreme Court De-

cision in connection with the Kansas Act. In view of the present status of this matter as a result of the litigation in the Supreme Court of the United States the question arises as to whether this Committee should be continued for further consideration of this matter or whether the Committee should not now be discontinued until there is a greater likelihood of being able to successfully draft an Act that would meet with the approval of and ultimately be sustained by the Courts, at which time a new Committee could be appointed.

2. Uniform Primary Act for Federal Officers.

This Committee, under the Chairmanship of Mr. Arthur H. Ryall of Michigan, will present a report at this time with the tentative draft of an Act attached with a view to drawing out the views of the Conference upon this subject but without any idea that an agreement upon it can be reached at this time. The Committee has had the benefit of the suggestions and criticisms of Professor Charles E. Merriam of the University of Chicago, a national authority on this subject, who has called attention to certain matters affecting the provisions of the Act as submitted and made reference to certain valuable material in connection with a thesis by Dr. Louise Overacker for her Doctor's degree, and the Committee is publishing copies of the letter and of the thesis as a part of its report. While there may be some doubt as to the effectiveness of certain provisions of the proposed draft it is believed that it is wise to include them at least for the purposes of discussion, particularly those having reference to the matter of campaign expenditures and party enrollment. Furthermore, it is clear that if an Act can be adopted which shall fix a common date and prohibit local requirements for all primaries for the selection of Federal officers that substantial benefit would follow. In view of a prior adverse report by a Committee of this Conference to which the matter was referred because they were not personally in sympathy with the primary system for selecting public officials the following excerpt from the report of the present Committee is of particular interest:

"While the problem is a very difficult one and

is of such a nature as to make the discussion of the matter on its merits almost impossible, still there can be no serious doubt about the advisability of legislation of this sort. There can be little doubt that the primary system has deterred very able men from becoming candidates for office. Since that is true and since it is also probable that the primary system will remain in vogue for some time, then every effort to simplify the system and remove from it those features which prevent the presentation of desirable men as candidates for office is a step in the right direction."

I trust that the Conference will give very careful consideration to the report and suggestions of the Committee, that the Committee may be continued, and that in order that a more complete draft may be presented to the next Conference, that the Committee when reappointed may have the benefit of the suggestions of this Conference in the preparation of a further draft.

3. Uniform Public Utilities Act.

While there is no draft available of the report of this Committee, of which Mr. Hazen I. Sawyer of Iowa is Chairman, it will, as heretofore stated, present for consideration of this Conference the draft of a Uniform Public Utilities Act in the preparation of which it has had the full co-operation of the best experts on the subject, including Mr. Carl D. Jackson, Mr. F. B. Odum and Mr. N. T. Guernsey, all of New York City, whom it is hoped by the Committee will be present here with it at the time of the discussion upon the draft. There is evidently a widespread demand on the part of both the public authorities and the private interests affected as well as on the part of the public for an adequate statute on this subject and it is to be hoped that the consideration of the Act by the Conference may be such that final agreement may be reached and the Act recommended for adoption.

4. Uniform Act Governing the Use of Highways by Vehicles.

Very substantial progress has been made by this

Committee in formulating a Uniform Vehicle Act under the Chairmanship of Mr. Gurney E. Newlin of California and with the assistance of J. Allen Davis, Esq., of the Los Angeles Bar, whose services were made available through the courtesy of Mr. Newlin. The Conference will recollect that at Philadelphia last year there was a discussion of the provisions of this Act and of the character and extent of legislation which should be included in it. Subsequent to the meeting of the Conference in December there was held at Washington a National Conference on Street and Highway Safety, which was called by Secretary of Commerce Hoover under the auspices of the United States Department of Commerce. The President of the Conference was invited to be present at this National Conference on Street and Highway Safety to represent this Conference but was unable to go, and requested Mr. Joseph F. O'Connell, our Vice-President, to attend. Mr. O'Connell rendered valuable service to this Conference in connection with making clear the kind and character of work which it was prepared to do and as a member of the Committee on Steering and Public Relations of the Hoover Conference, as it is popularly known, he has been able to materially assist in the guidance of the relations between the work being carried on by that Conference and of the work already under way under the auspices of our Committee. The National Conference on Street and Highway Safety created four Committees as follows:

Committee A—Uniformity of Laws and Regulations Governing the Use of Motor Vehicles and Highways.

Committee B—Enforcement.

Committee C—Causes of Accidents.

Committee D—Metropolitan Traffic Facilities.

Mr. Hoover invited the President of this Conference to become Chairman of Committee A on Uniformity of Laws and Regulations Governing the Use of Motor Vehicles and Highways. It seemed imperative that there should be a close relationship between that Conference and our own, and I, therefore, reluctantly accepted the responsibility after

various conferences as to the personnel of the Committee. It was finally made up with twenty-eight members in all with this Conference represented in its membership by Mr. George B. Young of Vermont as Chairman of our Committee on Co-operation with Other Organizations Interested in Uniform State Laws, Mr. Chester I. Long of Kansas as Chairman of our Uniform Public Law Section; Mr. Gurney E. Newlin as Chairman of our Committee on an Act Governing the Use of Highways by Vehicles; Mr. W. H. H. Piatt as Chairman of the Committee on Trade, Commerce and Commercial Law of the American Bar Association, and Mr. J. Allen Davis of Los Angeles, California, as the draftsman of our Act. Following these appointments there was a conference between Col. Barber representing Secretary Hoover and the officers of our Conference and the Uniform Public Law Section at New York at a meeting of the Uniform Public Law Section at The Association of the Bar of the City of New York and it was then agreed that the draft of our Uniform Vehicle Act should form the basis of discussion of my Committee, the so-called MacChesney Committee, of the Hoover Conference, a meeting of which was to be called in June at Washington. At that meeting of my Committee in June there was a full attendance of its membership and a very comprehensive discussion of the provisions of our Act. Very substantial progress was made but it became apparent that it would be necessary, in order to take full advantage of the legal knowledge of the members of our Conference and the practical knowledge concerning the subject matter of many of the men represented in my Committee of the Hoover Conference, that a Sub-Committee on Drafting should be appointed. On a proper resolution, therefore, I appointed a Committee of Eleven with Mr. Young of Vermont as Chairman, and with Mr. Long, Mr. Newlin and Mr. Davis, in addition to myself serving upon it. That Committee held a meeting in July at Atlantic City, when under the Chairmanship of Mr. Young with the assistance of Mr. Davis, the draft was thoroughly discussed and by agreement reached between Mr. Young as Chairman of that Committee, Mr. Newlin as Chair-

man of our Committee on the Uniform Vehicle Act and Mr. Long as Chairman of our Uniform Public Law Section, the results of that meeting are being submitted to this Conference as the report of our Committee on a Uniform Act Governing the Use of Highways by Vehicles for consideration at this Conference. It is hoped that substantial progress will be made in the further discussion of it so that it may go back to a further meeting of my Committee of the Hoover Conference for full discussion at a meeting which will probably be held sometime in October in Washington.

If our Conference is to be of the largest possible assistance in the drafting of this Act it is essential that full consideration be given to the Act at this time so that the views of this Conference may be before my Committee of the Hoover Conference at the time of its meeting so that some assurance may be given that when a final report is made it will represent the joint views of both organizations. As heretofore stated, this Act is one of three Acts upon which we are at present at work as a result of suggestions from various Federal governmental departments. It represents a new and very useful field of work and it is believed it will open up a position of the widest possible usefulness and influence to the National Conference if we can succeed in so directing our work as to arrive at final results with reasonable expedition. In connection with Mr. Young's report to the Executive Committee on Proposed Amendments on Constitution and By-Laws and in his report of the Committee on Co-operation with Other Organizations Interested in Uniform State Laws are certain suggestions which it is hoped, if adopted, will accomplish this result.

Probably one of the most important features of the Uniform Vehicle Act and one that will cause the greatest difference of opinion is that which requires a license as a prerequisite to driving an automobile. Certain commercial interests and some of the automobile club representatives are opposed to any license bill, such as they have in Massachusetts, but on the other hand it fairly can be said that the majority of those familiar with the subject favor it.

In Illinois where it was sought at the last session of the General Assembly to pass a law requiring a license, in addition to the opposition of the local motor clubs, there was very general opposition from the farming districts, where children drive cars of various makes and where they seemed unwilling that there should be any requirement of license even of the most simple kind as a prerequisite to their right to do so.

5. Uniform State Inheritance Tax Act.

As a result of the suggestion made by President Coolidge to the National Tax Association at its meeting in Washington it was intimated to me that it would be agreeable to have our Conference attempt the drafting of a Uniform State Inheritance Tax Act. I requested permission of the Executive Committee at its Mid-Year Meeting to appoint a Committee on this subject with a view to drafting a Uniform State Inheritance Tax Act. The President of the United States had indicated that if we could confine our Federal expenditures to legitimate obligations and functions of the Government a material reduction of taxes would be apparent and he has a number of times indicated that he regards the trespass by the Federal Government upon the proper State functions as one of the true reasons for the rising costs of the Federal Government. In addition to this it has certain other serious objections as tending to seriously interfere with the State governments. This is particularly true in the case of the Inheritance Tax legislation and our Committee to draft a Uniform Law upon this subject was appointed to draft a law in line with the suggestion of the President of the United States with a view to the gradual retirement of the Federal Government from that field so that an estate shall be taxed only once and that in the State of residence of the decedent except in the case of real estate, which would be taxed where located and then only once. In addition to this there should be full reciprocal relations between the different States as a result of the retirement of the Federal government from the field of Inheritance Tax legislation. The States as a reciprocal matter should retire from the field of Income Tax legislation, leaving that to the Federal Government except where it is adopted

in a given State as a substitute for all other forms of taxation except that upon real estate.

Inheritance Tax legislation by the United States government is essentially unsound as it takes a part of the corpus of an estate out of the State and into the coffers of the Federal Government thus permanently destroying so far as the taxing power of the State affected is concerned, property subject to its taxation to the extent so taken. This to that extent tends to increase State taxation because of the shifting of the burden to the remaining property while if the States levy an Inheritance Tax it tends to that extent to reduce other direct taxes.

With this in view I referred the whole matter as I have said to the Uniform Public Law Section and to the Committee created under it on the Uniform State Inheritance Tax Act of which Committee I appointed Mr. Armstrong of Maryland, a former Attorney General of that State, as Chairman. Following this appointment there was a preliminary discussion of a tentative draft of the Act upon the subject presented by Mr. Armstrong to his Committee at the time of the meeting of the Public Law Section at The Association of the Bar of the City of New York in April. At that time there were present representatives of the Inheritance Tax departments of several of the States, including New York and Pennsylvania. Following a suggestion made at that meeting by Mr. Schnader of Pennsylvania, Mr. Armstrong secured Mr. Fertig, a Deputy Attorney-General of Pennsylvania, in charge of tax matters to act as draftsman of the Act. Mr., Fertig in conference with Mr. Armstrong has been preparing such an Act for consideration at our Conference and the matter is on our programme for the discussion of a tentative draft to be presented at this time.

One of the matters that should be considered in connection with this matter is the system of property law in force in California where under their community system each spouse owns half of the other's property and each files a separate income tax schedule. Under the present law and regulations this makes a substantial difference in income tax payments on a large income. For example the tax on a \$20,000

income would be \$1,180 if one return were filed but if two returns were filed the surtax is decreased so that a saving of \$340 is effected. This system not only affects the income tax law, but has immediate bearing upon the Inheritance Tax question which we are discussing. If either the husband or wife dies the spouse already possesses half of the estate by virtue of the community property law and so only half is subject to tax. This situation has already been challenged and there is already a test case based upon the income of large income tax payers and other estates on the calendar of the United States Supreme Court. Either the law with reference to payment of Income and Inheritance Taxes should be so fixed that this matter may be equalized in other States, which would seem to be the desirable thing to do, or else so changed that a special exemption shall not be granted to those States which have the community property law in effect.

There can be no doubt that there is a widespread interest in this whole subject of tax legislation to which President Coolidge has devoted himself. There are certain interests that are opposed to the repeal of the Federal estate tax. The basis of this opposition was fairly stated in a letter under date of July 29, 1925, republished in the Edwin G. Booz Surveys of Chicago from the Des Moines Register for July 19, 1925, which says:

"I hand you copy of a resolution adopted by the Iowa Farm Mortgage Bankers Association at its meeting July 21st. It refers to the movement for repeal of the Federal estate tax. * * *

"However, there would now appear to be two strong reasons for maintaining the Federal estate tax, both of which are outlined in these resolutions.

"One reason is that under present conditions the only practical method of reaching tax exempt securities would appear to be through some form of a death tax.

"The other reason is that if our States set out on a campaign of competitive tax exemption for the purpose of inviting wealth to locate within

their borders, it is plain that the taxes so exempted **will fall upon someone else** and that 'someone else' will be those who are so unfortunately situated that they are not able to change their residence and environment at will."

The resolution referred to goes on record against the repeal of a Federal estate tax, but favors an amendment to the Federal Revenue Act to provide

"for giving full credit on the Federal estate tax for all estate or inheritance taxes which have been levied and collected by states."

It further says:

"amending the Federal estate tax to provide for levying a higher rate on tax exempt securities held by an estate than is levied on other estate property which has been taxable during the life of the owner."

The Farm Mortgage Bankers Association of America with offices in Chicago has also issued a pamphlet, "Federal Estate Taxes and Changes Proposed," which favors reduction rather than repeal and incorporates the suggestion, which presumably is the basis of the action quoted above, of the Iowa Farm Mortgage Bankers Association that an amendment of the Federal law

"to give full credit on Federal estate taxes for the entire amount of State inheritance taxes paid instead of limiting the credit to twenty-five per cent would afford to the States all reasonable relief which they could expect from the repeal of the law. It would relieve individuals of double taxation.

"The repeal of the Federal law would be a great injustice to the taxpaying citizens of the country, because it would again open the doors for tax avoidance on the part of many estates composed largely of tax free securities which of right ought to aid liberally in carrying the burdens of taxation."

It is apparent from the stress placed in the Des Moines Register on the action of the Farm Mortgage Association of Iowa and in the pamphlet of the Farm Mortgage Bankers Association of Amer-

ica upon the question of tax exempt securities that this is primarily the basis of their opposition to the proposed repeal of the Federal estate tax. It is apparent that these associations have a direct interest in the abolition of tax exempt securities. There are two sides to this movement for the abolition of such tax exempt securities on the merits of the question itself and certainly the question of the modification or the repeal of a Federal estate tax should not be approached from any such narrow point of view.

In any event no one in this country has been more active than the Secretary of the Treasury, Mr. Mellon, in endeavoring to abolish tax exempt securities. He has typified the Federal point of view very largely as opposed to the right of the States and their subsidiaries to issue tax exempt securities and many feel that in so doing he has ignored the effect which any such action would have ultimately upon the governmental power of the respective States which the National Conference of Commissioners on Uniform State Laws particularly represent. Certainly, however, as an advocate of the abolition of such tax exempt securities he cannot be held to be favoring the class which makes large investments in them and his statement, therefore, in direct opposition to that taken by the Farm Mortgage Bankers Association is worthy of very great consideration. For sometime it has been understood that he was not only in favor of general tax reductions both of surtaxes and of normal taxes, but that he favored the Federal Government abandoning the estate tax entirely and he was so quoted in the newspapers of the country, and again in a special dispatch from Plymouth, Vermont, under date of August 17th at a time when he was in conference with the President of the United States, Senator Smoot, Chairman of the Finance Committee and Representative Tilson, Floor Leader of the Republican majority in the House.

In this connection also it is significant that a great national organization which is more directly interested in the development of the land than any other interest has gone on record in favor of the abolition of the Federal estate tax. At its recent Sixteenth Annual Convention held in Detroit the National As-

sociation of Real Estate Boards went on record in favor of the abolition of the Federal estate tax and in favor of a Uniform State Inheritance Tax Act along the lines which I have previously discussed.

Another Association representing the land interests of the country has also gone on record in line with the action taken by the National Association of Real Estate Boards. The Pacific Northwest Real Estate Association in its Annual Convention recommended that the legislatures of the States in that region to estates be subject to but one inheritance tax, that one to be collected by the State governments and not by the Federal government.

The Chicago Tribune recently carried an article in which it stated that the business organizations throughout the country constituting the Chamber of Commerce of the United States cast an overwhelming vote in a referendum against the imposition of Federal and State Inheritance Taxes, and that they are also in favor of an organization to co-ordinate State and Federal systems of taxation. The position of the Chamber of Commerce of the United States as shown by the referendum conforms to that taken by President Coolidge, the National Tax Association, the Trust Division of the American Bankers Association, the National Association of Real Estate Boards as mentioned above, and that adopted by our Committee on the subject. The Finance Advisory Committee of the Chamber of Commerce of the United States stated that the logical conclusion seems to be that Federal estate tax should not be imposed, and those now existing should be abolished and that immediate action should be taken in order that by continued use such taxes may not come to be regarded as a part of the permanent scheme of National taxation. The recommendations submitted in the referendum together with the vote cast as given by The Chicago Tribune were as follows:

1. That the Federal government should always refrain from imposing estate or inheritance taxes. For, 1995; against, 237.
2. That the estate tax now levied by the Federal government should be repealed. For, 2105; against, 126.

3. That there should be an organization of representatives of the States and of the Federal government to co-ordinate national and state systems of taxation. For, 2190; against, 56.

In view of this vote and of the action of the various associations mentioned above as well as the recommendations of the President of the United States it is apparent that there is a widespread and vital interest in this important question and that the National Conference is justified in taking up this very difficult problem for solution. Immediate and continued attention should be given to the discussion and perfection of an Act with a view to its early adoption if this Conference is to be of the largest use in the proposed solution of this problem.

The Chicago Daily News has had an interesting series of articles on the importance of reconsideration of this whole question of Inheritance Taxes and the matter has been dealt with by other leading newspapers throughout the country.

II. Uniform Act for Compacts and Agreements Between States.

In a recent number of the Yale Review an article appeared on the question of Compacts between the States indicating a revival of interest upon this subject. It will be remembered that Colonel Wigmore of Illinois made a very comprehensive report upon this whole question several years ago with a view to the increased utilization of this method of legislation between States with reference to matters affecting particular States within the continental limits of the United States and with reference to certain questions involved in our commercial relations with foreign countries over which under our constitutional form of government the States and not the Federal Government have jurisdiction. I regret that the Conference, because of the failure of our State to reappoint him will not have the benefit of the further services of Colonel Wigmore on this matter.

III. Uniform Aeronautics Act.

It will be remembered that this Conference took final action on the Uniform Aeronautics Act in 1922. Since that date ten States have adopted that Act. Last year, however, as the result of certain criticisms of the Act

by a Committee on the Amendment of the Law of The Association of the Bar of the City of New York, as well as by Charles A. Boston, Esq., of the New York City Bar, I again called the entire matter to the attention of this Conference. It will be recollected a clause with reference to the ownership of the superincumbent air in the owner of the fee subject only to the right of flight is contained in our Uniform Aeronautics Act. Mr. Boston expressed the view, which was also the view of the Committee referred to, that there is very considerable doubt about the legal ownership of the superincumbent air by the owner of the land, and that if the Act is merely intended to define the rights of flight it should not go into this question and recognize a right of the land owner which is doubtful and which might prove embarrassing in future developments, such as radio communication. I recommended in my address last year, in view of the source of this criticism and its effect upon the passage of our Uniform Aeronautics Act, that the matter be referred to the Executive Committee for reconsideration.

As a result of the action of the Executive Committee the Committee on Uniform Aeronautics Act was reappointed by me with Col. Bogert of New York as Chairman, he having been the original Chairman of the Committee and draftsman of the Act, with the request that the Committee consider and report upon the objections just discussed. We have before us at this Conference the report of that Committee discussing in detail the objections which have been raised to our Act as it now stands and as it has been passed by ten States. The arguments against our Act have been, I believe, clearly presented by Mr. Boston. It is very unfortunate that there should have been an adverse report on the Uniform Aeronautics Act by the bar associations of New York State as mentioned, but notwithstanding that action and its importance and the weight to which it is entitled the controversy must be decided by the National Conference upon its merits, and it seems to me that the report of our Committee and its discussion of the rights of the private land owner and the nature of the rights of navigation in the superincumbent air has fairly answered the criticisms of the Act and in its discussion of certain other questions raised by the New York committee, it has also pointed

out that the questions therein raised had been adversely decided to those contentions prior to the drafting of our Act. The Committee states:

"The arguments brought forth by the Committee of the Association of the Bar are arguments which were considered before the adoption of the Uniform Act. They were weighed and found to be more than counterbalanced by arguments in favor of the Section criticized.

"Your Committee, therefore, recommends that the Conference again approve the Uniform State Law for Aeronautics in the light of the criticism made by The Association of the Bar of the City of New York and that a copy of this report, with a note of the action of the Conference, be sent to The Association of the Bar of the City of New York and to Charles A. Boston, Esq."

It would seem that a copy of this report should also be sent to the New York State Bar Association and to the American Bar Association Journal. I concur in the recommendations of the Committee.

E. Uniform Corporation Acts Section.

This section, of which Mr. Wade Millis of Michigan is Chairman, has under its jurisdiction at the present time only one Committee, namely, the Committee on Uniform Incorporation Act, of which Mr. Millis is also Chairman. It will be recalled that the Uniform Incorporation Act was given considerable time and there was a full discussion of it at the Annual Conference held last year in Philadelphia. At that time it was fully expected that the Act after redrafting by the Committee would be in such shape that it would be recommended for final passage this year. As a result of certain developments, however, the Committee does not expect to present the draft for consideration now, but expects to report upon the present situation and to request that the matter be referred back to it for presentation for final action in 1926.

As I stated in my address last year, the Chairman of the Committee, Colonel Millis, has given untiring attention to the subject and he has had the assistance of an able draftsman, Professor Robert S. Stevens, of Cornell University, in the preparation of what will be the Tenth Tentative Draft. In my Address to you last year I said:

"It will never be possible to get all of the States to agree upon the theory of an incorporation act, as some of the States will always adhere to the conservative policy of encouraging corporate management, other States will always incline toward a strict regulation of corporations, while a third group will regard incorporation as a mere revenue producing procedure. All three of these groups can hardly be gotten together, but there is a possibility, in my judgment, and I believe that the present draft accomplishes that end, of bringing the reasonable requirements of the first and second groups together in such a way as to present a satisfactory law."

I must confess to a feeling of disappointment that this Act is not to be before us for final action this year as I believe that the work done by our Committee and its draftsman, Professor Stevens, would have justified that procedure but I pass the matter along to my successor with the earnest hope that the next Annual Conference in 1926 may finally approve a Uniform Act upon this important subject. I do not believe that the Conference will ever be in a better position than then to secure action. It seems doubtful if it cannot be done then, if in fact it can be done at all.

F. Uniform Torts and Criminal Law Section.

This Section, of which Mr. Henry U. Sims of Alabama, is Chairman, has under its jurisdiction two Committees, one on the Uniform Act for Extradition of Persons Charged with Crime, of which Committee Mr. Sims is also Chairman, and Uniform Act to Regulate the Sale and Possession of Firearms, of which Mr. Charles V. Imlay of Washington, D. C., is Chairman.

I. Uniform Act for the Extradition of Persons Charged with Crime.

The Committee this year submits a draft of an Act for the discussion of the Conference which is based upon a consideration of a tentative draft first reported to the Conference in San Francisco in 1922. This draft like the first is based on a textbook by James A. Scott, Esq. of the Chicago Bar, but differs from the first draft in several important respects. The Committee states that there were a number of suggestions received at the time of the discussion at San Francisco, one of which was that informations by prosecuting attorneys should be included

as bases for requisitions. This suggestion has been rejected by the Committee because merely information and belief are not sufficient to remove a person from one state to another and because the Federal statute upon which interstate rendition is based does not permit it. The matter is covered by Section 2 of Article VI of the United States Constitution and by Sections 5278 and 5279 of the U. S. R. S. The Committee states

"These two statements are the law of the land and cannot be contradicted; and Congress has never seen fit even to amplify them.

"It has been recognized for many years, however, that the states may add provisions which are not in conflict with the Constitution and the Act of Congress.

"Thus it is recognized that the states can legislate, (1) upon the subject of arresting fugitives from justice before the demand for extradition can be made; (2) upon the procedure in arresting the fugitive after demand made; (3) upon the method of determining whether the accused is a fugitive from justice; (4) upon the method of identifying an alleged fugitive; (5) upon the scope of inquiry on habeas corpus, etc. And on most of these subjects all the states have legislated, but in very variant form. Hence the need of a uniform act to supplant them all."

The Committee also calls attention to the fact that it follows in its draft the recommendation of Mr. Scott that the subject be called "Interstate Rendition" and not "Extradition." If this recommendation meets with the favor of the Conference then the name of the Committee, as well as the reference to it in the Act, should be changed accordingly.

II. Uniform Act to Regulate the Sale and Possession of Firearms.

This matter you will remember was taken up at the request of the United States Revolver Association and a Committee appointed at the Minneapolis meeting of the Conference of 1923 with Mr. Charles V. Inlay of Washington, D. C., as Chairman. The Committee presents a draft of an Act for discussion at this Conference. While the Committee has, generally speaking, adopted the law proposed by the Revolver Association there have been

a number of omissions, changes and additions. The Committee calls specific attention to the differences in the tentative draft from the text of the United States Revolver Association Law as follows:

"1. For violation of the law no definite amounts of fines or lengths of imprisonment are fixed, the provisions of the Revolver Association Law being put in brackets for illustration. These have been generally considerably reduced in States adopting the Revolver Act.

"2. The provisions of s. 3 of the Revolver Association Law for progressive increase of punishment is omitted, because it is believed by the committee to be too drastic. It has been omitted, as stated above, in the New Hampshire Act.

"3. In s. 4 of the Tentative Draft, which follows s. 5 of the original, the prohibition against aliens is omitted because the committee feels that this may involve a possible question of treaty violation. Summaries of various state laws on this subject are contained in an appendix to this report.

"4. The exceptions to the rule against carrying concealed weapons in s. 6 of the Tentative Act modify and enlarge somewhat the same contained in 7 of the original."

The proposed law does not aim to interfere with the manufacture of firearms, neither does it aim to require a license to purchase firearms, which is the method of regulation adopted by some legislatures (e. g., Oregon Laws 1913, ch. 256, s. 1). Nor does it aim at so drastic a regulation as a state-wide regulation of firearms as in the Arkansas Act of March 16, 1923. It does define what shall constitute a revolver, forbids felons from possessing arms at all, forbids everyone, with suitable exceptions from regulation, carrying arms except with a license, forbids sales of arms to minors and regulates sales generally. The Committee states

"It is believed by the Committee that the provisions of the proposed law present no constitutional objections, constitute no drastic changes in the law of any jurisdiction, and if adopted generally will not only secure uniformity but will remove the evils of the present lack of uniformity. One of the most seri-

ous of these evils is the ease with which a criminal may now go from a State where the laws are stringent to one where there is little or no regulation, and after purchasing a weapon return with it to the former where he may thus accomplish his nefarious purpose."

The Committee requests a full consideration of the tentative draft by the National Conference in line with the vote of the last session and recommends that this Committee be continued or another appointed for the purpose of giving further consideration to the proposed law in the light of what action may be taken by the Conference I concur in this recommendation.

G. Uniform Civil Procedure Section.

This Section under the Chairmanship of Judge Clevenger of Ohio, has under its jurisdiction three Committees, namely, Uniform Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases, of which Judge Clevenger is also Chairman, Uniform Arbitration Act of which Mr. O'Connell of Massachusetts is Chairman and Uniform Standard State Mechanics' Lien Act, of which Mr. Imlay of Washington, D. C., is Chairman.

I. Uniform Act for Securing Compulsory Attendance of Non-Resident Witnesses in Civil and Criminal Cases.

No report available.

II. Uniform Arbitration Act.

It will be remembered that as your President and as such *Ex-Officio* The Committee on Uniform State Laws of the American Bar Association that I reported the final adoption of this Act by the National Conference last year to the American Bar Association at its meeting in Philadelphia. At that time however, a technical objection was raised that it had not, in accordance with the By-Laws of the American Bar Association, been distributed thirty days in advance of the meeting to the members of that Association. The point of order was sustained and was probably technically correct, but it was the first time that such a technical objection had been raised in the American Bar Association in connection with the work of the National Conference and it set a very undesirable precedent if the National Conference is to have the cooperation of the American Bar Association in forwarding the

work which it has undertaken. As it has heretofore been stated in connection with the Executive Committee report, Mr. Young as Chairman of the Committee on Cooperation and *your President appeared before the Executive Committee of the American Bar Association in connection with this matter, and it is believed that the By-Laws of the American Bar Association will be so amended that such an objection cannot in the future be raised. On motion duly made and seconded it was voted by the American Bar Association at the Philadelphia Meeting:

“That that part of the report having to do with the Uniform Arbitration Act, and the act itself, be referred for consideration to the National Conference of Commissioners on Uniform State Laws for consideration by its Executive Committee and by a conference with those interested in the subject to see whether or not they may get together on this important legislation.”

There is undoubtedly a widespread difference of opinion as to the desirability of the point of view held by those most active in this matter in the American Bar Association and the view adopted in the Uniform Arbitration Act by this Conference. It seems to me only fair to say that in the presentation of our Act both sides of the question have been very fully presented so that anyone giving consideration to it is fully informed as to the different points of view and is in a position fairly to make a choice.

In this connection the Report of the Special Committee appointed in February, 1924, by The Association of the Bar of the City of New York, of which Mr. Carl T. Frederick is Chairman, to Consider the Subject of Arbitration with Particular Reference to its Operation in New York is worthy of careful study. It attaches as appendices a synopsis of the statute law relating to Arbitration in all of the states, copy of the questionnaire sent out in connection with the work of the Committee and a list of the cases arbitrated under the auspices of various trade associations during the year 1924. The Committee states the scope of its investigation; reviews the growth of arbitration; the reasons for the growth of arbitration; states the proper field and scope and the defects of the present law, in connection with which it calls attention to the

fact that under the present law certain incidental remedies of attachment, injunction, receivership and arrest may be vital to the protection of the plaintiff's interests and that he cannot avail himself of them without forfeiture or waiving his right to compel the other party to proceed with the arbitration and recommends that the law be so amended as to permit any party to avail himself of these remedies without the penalty stated being attached; if further states the practical working of arbitration at the present time and the attitude of the legal profession toward arbitration in connection with which matter it states

"We are of the opinion that the profession and this association in particular should maintain a friendly and sympathetic attitude toward the more extended use of arbitration, *always bearing in mind, however, that its appropriate field in respect to future disputes is somewhat qualified and limited.* It is, in our opinion, desirable that this Association should lend its influence and aid to arbitration within its proper field. It is not, as we believe to the interest either of the public at large or of the profession that this association should in any way oppose the more extensive use of arbitration, *whenever,* within its proper field it can relieve the congestion of the courts, reduce the expense, delay and irritation to the parties and accomplish substantial justice."

The italics do not appear in the original report but I call your particular attention to the significance of the statements in connection with the present discussion.

In connection with the presentation of the point of view embodied in the New York and New Jersey Acts and the Federal law it does not seem to me that the views represented by our Act have been as fairly presented as have the opposing views in connection with the discussion by the National Conference Act. Indeed I have been advised by those in a position to know that the Federal Act was passed by Congress on a representation that it represented the view of the American Bar Association without any indication that there was an opposing view represented by the Committee on Uniform State Laws of that Association embodying the views of this Conference which had reported as a result of the action of this Conference a rule adverse to that presented

to Congress as the view of the Association. Our Committee in its report says

"Your Committee feels it should again call attention to the fact that this subject is one on which there are two distinct schools of thought, viz., that which holds that an agreement to arbitrate any controversy may be made before the controversy arises, and that which believes that the agreement to arbitrate should be confined to controversies which have arisen. The line of cleavage is very clear. New York and New Jersey have passed laws which have been held constitutional which permit parties to agree in advance to arbitrate any difficulties that may arise in the future in connection with the contract. Illinois on the other hand limits the agreement to arbitrate to controversies which have arisen."

Our Committee further states

"Your Committee feels that the American business man or farmer will not knowingly give up his rights to have the Courts pass on the question of his rights or wrongs. As lawyers, we know that the great strength of the American Republic is in large measure due to the ever present knowledge that every man, rich or poor, can go to the Courts for a redress of any wrongs that grow out of his daily transactions.

"Your Committee believes that the changes which have come about in the New York, New Jersey, Massachusetts, and the Federal Law, are the result of well developed propaganda used for the purpose of inducing merchants to make use of arbitration as a simple, inexpensive, and expeditious method of disposing of controversies arising amongst themselves.

"But these same propagandists overlook the fact that on our Statute Books for many years, there have been provisions that permitted merchants to arbitrate their disputes, but there has been no disposition to ever avail themselves of the law."

It is very difficult in view of the controversy which is going on to arrive at all the facts with reference to this question, but the Committee seems to be on strong ground when it says:

“We submit that no law should be passed which permits anyone to thoughtlessly sign away his rights.”

While I believe that it is extremely important that some method should be found, if possible, by which the Uniform Arbitration Act and the law in New York, New Jersey and Massachusetts as well as the Federal law shall be brought into harmony, I do not believe that it should be done by giving legal status to the incorporation in a general contract of a provision which, as a matter of course, shall include future arising controversies as well as controversies which have already arisen. A fair neutral ground would seem to be to provide that if the parties as a separate act and by a separate instrument containing no other subject matter expressly agree to so submit to arbitration that such an agreement shall be valid and enforceable. Such an agreement should not be buried, however, in a mass of other matters in a contract but should clearly set forth not only the agreement to submit to arbitration future arising controversies as well as those already arisen, but should also specifically state the legal rights and incidental remedies which are being waived by such action so that the person signing the agreement may be somewhat aware of the change in his legal rights and what he is giving up by signing the contract. The advantages of commercial arbitration in a great mass of commercial transactions is so great that where parties are dealing on a parity they should not be deprived of this right but the legal method of entering into such an agreement should be carefully safeguarded so that it shall not be done by inadvertence. In this connection the Committee states that Mr. Justice Stone of the United States Supreme Court, addressing himself to this subject, has said:

“Legal controversies arise out of disputed questions of fact or of the law applicable to the facts, or both. The controversy of fact may be involved and intricate; the law applicable to it may be difficult to ascertain and doubtful. For the investigation and solution of such controversies we have a system of law and courts which are the product of some six centuries of experience. While no one, and least of all I, will make any claim of perfection for our judicial system, nevertheless, I do assert that no better

system has been devised for the settlement of controversies involving complicated facts or difficult points of law. To say that such cases can be or will be better dealt with by untrained arbitrators who have had no experience in the examination of witnesses and in analyzing and sifting facts and who are not subject to any kind of judicial control or review, is to ignore the teachings of experience and expert knowledge. Moreover such assertion disregards the actual experience in dealing with complicated or difficult litigation by arbitration."

That arbitration has a valuable contribution to make to the settlement of commercial disputes any well-informed lawyer will agree, but that it will accomplish in the way of simplification anything like what its advocates claim seems altogether unlikely. The millenium has not yet arrived.

In closing its report to this Conference our Committee says:

"Your Committee again reiterates its belief that in the greater majority of States, the law proposed by your Conference will be the more acceptable."

The controversy which has arisen with reference to this arbitration matter is one which should be settled at an early date and it is hoped that the National Conference as a result of the discussion at this Conference will reach a final conclusion as to its recommendations to the American Bar Association and that that recommendation may be so supported at the coming meeting of the American Bar Association as to receive the recommendation of that Association for the views finally adopted by this Conference.

III. Uniform Standard State Mechanics' Lien Act.

As I have stated this matter was taken up and the Committee authorized as a result of a request by Secretary Hoover of the United States Department of Commerce for cooperation in the preparation of a so-called Standard State Mechanics' Lien Act. Following that request I had a conference with Dr. John M. Gries, Chief of the Division of Building and Housing of the United States Department of Commerce and appointed Mr. Im-lay of Washington, D. C., as Chairman of the Committee,

which I then appointed. This Committee has been in conference with the Department of Commerce and its representatives and in collaboration with various officials of that Department and worked upon a tentative draft of an Act which it hopes in due course to present to this Conference for consideration but does not at this time submit a draft for that purpose. The Committee in the report now submitted recommends to this Conference as follows:

"1. That this Committee or a similar Committee be retained to give further consideration to the subject of a Uniform Mechanics' Lien Law, and to work so far as is possible in cooperation with the existing Committee on the same subject in the Department of Commerce.

"2. That this Committee or a similar Committee be authorized to prepare a tentative draft of a Uniform Mechanics' Lien Law, taking into consideration so far as it seems best to the Committee the results of the work of the Committee of the Department of Commerce, and report said tentative draft for the consideration of this Conference at its meeting in 1925.

"3. That this Committee be granted such an appropriation by the Conference as may enable the members of the Committee to carry out the program mentioned."

I concur in these recommendations.

Committee on Nominations, Executive Secretary and Permanent Headquarters:

During the past year because of the fact that Colonel Bogert is to be on leave of absence from Cornell University Law School at the University of Chicago Law School it became essential that consideration should be given as to whom should act as Secretary of the National Conference during the coming year. It seemed desirable, therefore, that a Committee should be appointed to consider not only this matter but also the related matters of an Executive Secretary to carry on the work which has now become so heavy as to make it difficult to get anyone to undertake it upon a voluntary basis and also to consider the question of the desirability at this time of having permanent headquarters with such an Execu-

tive Secretary in charge. With this in view also the Committee on Proposed Amendments has submitted certain amendments to the Constitution and By-Laws to make possible appropriate action in these matters. Accordingly, during the year I appointed a Committee on Nominations, Executive Secretary and Permanent Headquarters with Mr. Hogan of Vermont, as Chairman and with Messrs. Clevenger, Hollingsworth, Millis and Sawyer as the other members and instead of waiting until a motion had been made at this Conference authorizing the President to do so, as has been the case heretofore. I, therefore, request that my action in this regard be ratified, including the appointment of the members of this Conference who have been serving on the special committee appointed by me. In view of the fact that the custom heretofore pursued in this regard grew out of the fact that the Annual Conference was regarded as an Annual Convention, whereas it is in fact a continuing legislative body and in further view of the fact that the Constitution and By-Laws have been changed in other respects to recognize this fact, I recommend that definite provision be made to authorize hereafter a Committee on Nominations to be appointed in advance of the Annual Meeting so that it may meet at the time of the Mid-Year Meeting of the Executive Committee and Sections and have time further to canvass the field prior to the actual meeting of the Annual Conference.

Respectfully submitted,

NATHAN WILLIAM MACCHESNEY,

President.

APPENDIX "A."

State of New York.

No. 575 Int. 535.

IN SENATE.

March 16, 1888.

"Introduced by Mr. Van Cott—read twice and referred to the committee on the judiciary—reported for the consideration of the Senate and committed to the committee of the whole—ordered, when printed, to be recommitted to the committee on the judiciary.

“AN ACT
TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS FOR THE PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

“WHEREAS, The welfare of the people of the United States would be promoted by the enactment of uniform laws in the several states upon topics of common and public concern with reference to which the interests of the people in every state are identical, to wit: marriage and divorce, insolvency, the form of notarial certificates and other subjects; and

“WHEREAS, A practical uniformity in these laws can best be attained by the concerted and concurrent action of the several states; therefore,

“The People of the State of New York, represented in Senate and Assembly, do enact as follows:

“SECTION 1. Within thirty days after the passage of this act, the Governor shall appoint, by and with the consent of the senate, three commissioners, who are hereby constituted a board of commissioners by the name and style of “commissioners for the promotion of uniformity of legislation in the United States.” It shall be the duty of said board to examine the subjects stated in the preambles of this act; to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially to consider whether it would be wise and practicable for the State of New York to invite the other states of the Union to send representatives to a convention which shall draft uniform laws to be submitted for the approval and adoption of the several states, and to devise and recommend such other course of action as shall best accomplish the purpose of this act.

“Sec. 2. Said commissioners shall hold office for a term not exceeding two years. No member of said board shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. In case any of the persons so appointed as above will not undertake the office of this commission, or in case of a vacancy on said board, such vacancy shall be filled by the Governor.

“Sec. 3. Said board may employ such person and incur such expenses as may be necessary in the performance of their duties; but the total annual expense of said board shall not exceed the sum of five thousand dollars.

"Sec. 4. The sum of five thousand dollars, or so much thereof as may be necessary, payable out of any moneys in the treasury not otherwise appropriated, is hereby appropriated subject to the audit of the comptroller to carry out the provisions of this act, and the same shall be payable by the comptroller to the said commissioners.

"Sec. 5. Said board shall report to the legislature at its next session on account of its transactions and its advice and recommendations as required by section one of this act.

"Sec. 6. This act shall take effect immediately."

New York, March 7, 1888.

"To the Legislature of the State of New York:

"The undersigned respectfully represent: That they approve of the bill hereto attached, entitled 'An Act to Provide for the Appointment of Commissioners for the Promotion of Uniformity of Legislation in the United States', and that they are desirous to have it become a law.

THEODORE W. DWIGHT,
HOOPER C. VAN VORST,
WALDO HUTCHINS,
ANDREW H. GREEN,
DAVID R. JACQUES,
WILLIAM ALLEN BUTLER,
DANIEL G. ROLLINS,
CHAS. E. STRONG,
HENRY E. ROWLAND,
WAGER SWAYNE,
JOHN F. DILLON,
GEO. HOADLEY,
AUSTIN ABBOTT,
THERON G. STRONG,
SAMUEL B. CLARKE,
JOSHUA M. VAN COTT,
SIMON STERNE,
W. W. NILES,
WILLIS S. PAINE,
NOAH DAVIS,
WILLIAM DORSHEIMER,
F. R. COUDERT,
ALBERT E. HENSCHEL."

“SUGGESTIONS

in favor of

“Assembly bill: ‘To provide for the Appointment of Commissioners for the Promotion of Uniformity of Legislation in the United States.’

“As the author of the above entitled bill, now awaiting executive action, I deem it proper to say something in its favor.

“This bill was originally introduced in 1888 by Senator Van Cott and was then favorably reported by the Senate Judiciary Committee; it passed the Assembly in 1888 and 1889 but was each time blocked in the Senate by the opposition of Senators Kellogg and Robertson.

“It will scarcely be necessary to molest you by an extended discussion of the attractive subject to which this bill relates; the recommendations upon this subject, contained in your annual message of 1889 are sufficient proof of your sympathy with the contemplated reforms sought to be initiated by this measure.

“I have the honor to submit two newspaper extracts of the year 1888, setting forth some of the ideas which gave rise to this movement, and also showing the names of the eminent jurists who joined me in the original memorial to the legislature, in favor of the bill.

Respectfully submitted by

ALBERT E. HENSCHEL.

Hon. David B. Hill, Governor, Albany, N. Y.

Dated New York, 214 Broadway,

April 19, 1890.

Enclosing extracts from *Tribune*, March 19, 1888, and *Star*, February 25, 1888.”

W. F. WARREN, LL.D.,
President.

EDMUND H. BENNETT, LL.D.,
Dean.

Boston University,
School of Law,
10 Ashburton Place,

Boston, February 27, 1888.

“Dear Sir: I have examined the copy of your proposed bill and think it wise as a preliminary or introductory measure. Perhaps the statement that Congress can not remedy evils

from want of uniformity is not quite true as to bankruptcy, since it has express power to legislate on that subject. And *some* think Congress may do the same as to Marriage and Divorce under the power in Sec. 8, to 'provide for the general welfare,' but this is not probably generally admitted; and some amendment would be necessary to enable Congress to act on the subject. In the meantime State legislation or State *agitation* will be useful and educating.

"I send this through Mr. Gregory, but if you please to send me your address, I should be happy to send you a copy of one or two articles of mine in the Forum on the subject.

Very truly yours,

EDMUND H. BENNETT, (*Signed.*)

"Senator Van Cott, etc., etc."

ACTS APPROVED IN 1925

UNIFORM ARBITRATION ACT

(This Act was approved in 1924 and the approval was repeated in 1925. For the text see 1924 Handbook, p. 369, and report of the Committee for 1925, p. 766, post).

UNIFORM WRITTEN OBLIGATIONS ACT

(See text of Act as approved, in report of Committee on Uniform Commercial Acts, p. 583, post).

UNIFORM INTERPARTY AGREEMENT ACT

(See text of Act as approved, in report of Committee on Uniform Commercial Acts, p. 583, post).

UNIFORM JOINT OBLIGATIONS ACT

(See text of Act as approved, in report of Committee on Uniform Commercial Acts, p. 583, post).

REPORT OF THE SECRETARY OF THE
NATIONAL CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS

FROM JUNE 1, 1924 TO JUNE 30, 1925, INCL.

RECEIPTS

<i>1924</i>			
June	1	Balance on hand.....	\$164.45
July	4	Received from W. O. Hart, Treasurer.....	200.00
July	12	Received from Assistant Secretary, Reimbursement of money advanced to attend Annual Conference	145.00
July	26	Received from sale of pamphlets.....	1.00
Oct.	10	Received from Calvert Magruder, sale of pamphlets	8.75
Oct.	10	Received from Business Digest, for one Handbook..	1.00
Oct.	28	Received from sale of pamphlets.....	.90
Nov.	4	Received from W. O. Hart, Treasurer.....	200.00
Nov.	5	Received from sale of pamphlets.....	.75
Nov.	12	Received from sale of Handbook.....	1.00
Dec.	29	Received from W. O. Hart, Treasurer.....	200.00
<i>1925</i>			
Feb.	5	Received from George G. Bogert, Personal loan to Conference to meet bills.....	100.00
Feb.	7	Received from sale of pamphlets.....	1.50
Feb.	10	Received from W. O. Hart, Treasurer.....	200.00
Feb.	21	Received from L. W. Dillman, for pamphlets....	3.25
Feb.	23	Received from sale of pamphlets.....	1.05
Mar.	4	Received from sale of pamphlets.....	3.75
Mar.	28	Received from W. O. Hart, Treasurer.....	200.00
June	13	Received from sale of pamphlets.....	7.00
June	24	Received from American Bankers' Association for pamphlets.....	4.20
			<hr/>
			\$1443.60

DISBURSEMENTS

<i>1924</i>			
June	4	Paid George G. Bogert, Secretary, expenses for trip from New York to Ithaca in Conference work...	23.86
June	7	Paid Assistant Secretary, balance of June salary....	35.00
June	7	Paid Cornell Co-operative Society, office supplies...	.65
June	7	Paid Postal-Telegraph Cable Company for telegrams	3.69
June	7	Paid Cornell Co-operative Society for postage stamps	20.00

June 24	Paid Assistant Secretary, salary one month to July 7th.....	70.00
July 3	Paid Assistant Secretary, money advanced to attend Annual Conference.....	70.00
July 9	Paid Assistant Secretary, money advanced to meet expenses at Annual Conference.....	75.00
July 9	Paid George G. Bogert, cost of mailing file from Ithaca.....	2.28
July 22	Paid Hartford Post Office for postage stamps.....	10.00
July 22	Paid Assistant Secretary for trip to Geneva in re Conference reports.....	4.78
July 22	Paid Assistant Secretary for money advanced to pay Miss Malone for clerical assistance.....	2.75
Aug. 2	Paid Hartford Post Office for postage stamps.....	5.00
Aug. 2	Paid Assistant Secretary, Salary one month, to August 7th.....	75.00
Sept. 20	Paid Cornell Co-operative Society for postage stamps.....	10.00
Sept. 20	Paid American Railway Express Company, Shipping Acts to Mr. Hargest.....	.78
Oct. 6	Paid Assistant Secretary, Salary one month to September 7th.....	75.00
Oct. 6	Paid Cornell Co-operative Society for office supplies.....	6.50
Oct. 17	Paid Assistant Secretary, Salary on account, one month to October 7th.....	20.00
Oct. 24	Paid Assistant Secretary, money advanced to buy 170 double postal cards.....	3.40
Nov. 4	Paid Assistant Secretary, Balance of October salary, one month to October 7th, \$55; and November salary, one month to November 7th, \$75.....	130.00
Nov. 4	Paid U. S. Post Office for postal cards.....	1.60
Nov. 7	Paid American Lead Pencil Company, 1 dozen pencils.....	1.00
Nov. 7	Paid Assistant Secretary, money advanced for office supplies.....	.35
Nov. 11	Paid Assistant Secretary, mailing Handbook manuscript.....	1.70
Nov. 15	Paid Assistant Secretary, on account salary due December 7th.....	25.00
Nov. 17	Paid Cornell Co-operative Society for postage stamps.....	10.00
Dec. 2	Paid George Rice, clerical services.....	2.50
Dec. 2	Paid T. C. Strong, clerical services.....	2.50
Dec. 2	Paid A. Weinberg, clerical services.....	4.00
Dec. 2	Paid Max Schoonmaker, clerical services.....	3.00
Dec. 2	Paid Fred Schroeder, clerical services.....	9.75
Dec. 4	Paid Assistant Secretary, on account salary due December 7th.....	15.00

Dec. 9	Paid Cornell University for telephone calls.	2.50
Dec. 27	Paid Assistant Secretary, balance of salary one month to December 7th.	35.00
<i>1925</i>		
Jan. 5	Paid Assistant Secretary, salary one month to January 7th.	75.00
Jan. 6	Paid Cornell Co-operative Society for stamps.	10.00
Jan. 8	Paid Mrs. F. E. Bascom, clerical services.	5.40
Jan. 14	Paid Cornell University, telephone calls.	2.70
Jan. 17	Paid Mrs. F. E. Bascom, stenographic services.	10.50
Jan. 19	Paid American Express Company, for Handbooks shipped from Humphrey.	2.89
Jan. 21	Paid F. H. Schroeder, clerical help and postage advanced in mailing 1924 Handbooks.	57.89
Jan. 24	Ithaca Daily News, advertising for stenographer.	1.08
Jan. 24	Paid Western Union Telegraph Company, sending telegram to Mr. Hart. . . . .	.72
Jan. 24	Paid to Mrs. F. E. Bascom, stenographic work.	8.25
Jan. 29	Paid American Express Company, express on boxes from Humphrey.	6.10
Jan. 31	Paid Martha Hunter, stenographic work.	5.80
Feb. 5	Paid Mrs. F. E. Bascom, stenographic work.	1.95
Feb. 6	Paid Cornell University, long distance telephone calls.	2.85
Feb. 6	Paid Cornell Co-operative Society, office supplies.	3.85
Feb. 6	Paid Maybelle Outterson, for proof reading.	10.98
Feb. 7	Paid Cornell Co-operative Society, postage stamps.	10.00
Feb. 7	Paid Martha Hunter, wages one week.	15.00
Feb. 9	Paid J. McKee, helping in sending out Handbooks, etc.	5.00
Feb. 9	Paid Mrs. F. Casey, clerical services.	10.00
Feb. 10	Paid Assistant Secretary, account salary.	20.00
Feb. 10	Paid George G. Bogert, reimbursement of personal loan made to Conference to meet expenses of Secretary's Office.	100.00
Feb. 24	Paid Martha W. Hunter, money advanced for postage stamps. . . . .	.50
Mar. 6	Paid Cornell University for telephone calls.	2.30
Mar. 11	Paid Assistant Secretary, balance of salary due one month, to March 6th.	55.00
Mar. 11	Paid Cornell Co-operative Society, postage stamps.	10.00
Mar. 30	Paid Reed and Barker, binding Conference Proceedings.	4.00
Apr. 3	Paid Assistant Secretary, salary one month, to April 6th.	75.00

Apr. 13	Paid Cornell University, telephone calls.....	3.75
Apr. 13	Paid Cornell University, telephone call to Buffalo..	2.45
Apr. 13	Paid Assistant Secretary, account May salary.....	15.00
Apr. 14	Paid U. S. Post Office, Ithaca, N. Y., stamps.....	15.00
Apr. 20	Paid Assistant Secretary, account May salary.....	20.00
Apr. 30	Paid Assistant Secretary, balance May salary, due May 6th.....	40.00
May 15	Paid Assistant Secretary, on account June salary...	25.00
May 18	Paid Cornell University, conference telegrams to Albany and New York.....	.87
May 28	Paid Assistant Secretary, account June salary.....	25.00
June 19	By check of William W. Green, returned for old date	1.05
June 24	Paid Cornell Co-operative Society for postage stamps	15.00
June 24	Paid Cornell Co-operative Society for office supplies	4.50
June 30	Balance on hand.....	5.63
		<hr/>
		\$1443.60
		<hr/>

NATIONAL CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS

ANNUAL REPORT OF W. O. HART

Treasurer

FOR THE YEAR ENDING JUNE 30, 1925

RECEIPTS

<i>1924</i>			
June	30	Balance cash on hand.....	\$4082.12
July	1	Received from the State of Ohio.....	\$275.00
July	7	Received from the State of Pennsylvania.....	350.00
July	11	Received from Texas State Bar Association.....	100.00
July	12	Received from the District of Columbia.....	250.00
July	29	Received from the State of Delaware....	50.00
July	29	Received from the State of Maryland....	250.00
July	31	Received from the State of Connecticut.....	250.00
Sept.	29	Received from the Michigan Bar Association.....	100.00
Sept.	29	Received donation from Charles Hamill of Chicago.....	20.92
Oct.	30	Received from Iowa State Bar Association.....	300.00
Nov.	22	Donation of Commercial Law League of America.....	250.00
Dec.	5	Rebate on bill for printing President's Address.....	10.00
Dec.	31	Received from Illinois Bar Association..	150.00
<i>1925</i>			
Feb.	19	Received from State of Wisconsin.....	200.00
Feb.	19	Received from American Bar Association.....	3000.00
Feb.	23	Received from the State of Utah.....	150.00
Mar.	23	Received from the State of Maryland....	250.00
May	18	Received from American Bar Association.....	2500.00
June	2	Refund from expenses of George B. Young.....	7.20
June	12	Received from the State of Ohio.....	250.00
June	29	Received from the State of South Dakota.....	150.00
June	30	Received from the Iowa State Bar Association.....	300.00
		Total Receipts.....	\$13245.24

DISBURSEMENTS

1924

July	3	Check No. 58, W. E. Britton, Expenses attending Meeting of Committee on Chattel Mortgage Act. Bill approved July 3rd.....	\$5.50
July	3	Check No. 59, George M. Hogan, Expenses as Chairman of Committee on Chattel Mortgage Act. Bill approved July 3rd.....	73.51
July	3	Check No. 60, George G. Bogert, Expenses of Secretary's Office. Bill approved July 3rd.....	200.00
July	3	Check No. 61, T. G. Miller's Sons, Paper Company, Printing Record of Commissioners. Bill approved July 7th.....	22.00
July	3	Check No. 62, W. F. Humphrey, Sundry printing, Bill approved July 3rd.....	586.81
July	3	Check No. 63, W. F. Humphrey, Printing Sale of Securities Act. Bill approved July 3rd.....	13.18
July	5	Check No. 64, The Colwell Press, Inc., Printing Report on Mortgage Act. Bill approved July 5th	135.00
July	5	Check No. 65, A. H. Ryall, For Services of Prof. Robt. T. Crane, on Federal Primary Law. Bill approved June 26th.....	72.00
July	5	Check No. 66, A. H. Ryall, Expenses for Committee on Federal Primary Law. Bill approved June 26th	50.00
July	5	Check No. 67, George G. Bogert, Amount paid to Pianist for Memorial Services. Bill approved July 5th.....	10.00
July	7	Check No. 68, Mrs. Mabel C. Trowbridge, Services as Stenographer during Annual Conference, July 1st-8th, Bellevue Stratford Hotel, Philadelphia, Pa. Bill approved July 7th.....	40.55
July	8	Check No. 69, Daniel E. Reed, 40 hours bell boy service. Bill approved July 8th.....	25.00
July	8	Check No. 70, International Printing Company, Philadelphia, Pa. Printing during Conference. Bill approved July 8th.....	128.50
July	9	Check No. 71, Irving Butler, Expenses of Assistant Secretary in attending Annual Conference, Bill approved.....	286.99
July	29	Check No. 72, Donald E. Bridgman, Expenses of meeting on Uniform Mortgage Act. Bill approved July 25th.....	141.84
July	29	Check No. 73, Derbes, Caballero, and Miller Auditing Treasurer's Report. Bill approved July 25th.....	25.00

July	29	Check No. 74, The Atkinson Press, Printing programs and roll of Members. Bill approved July 17th...	77.00
July	29	Check No. 75, Yale University School of Law, Expenses of Chattel Mortgage Act. Bill approved July 25th.....	54.00
July	29	Check No. 76, Barnard and Miller, Printing Address of President. Bill approved July 25th.....	286.70
July	29	Check No. 77, W. O. Hart, Expenses of Treasurer's Office. Bill approved July 25th.....	100.00
July	29	Check No. 78, U. S. Fidelity and Guaranty Co., Premium on Treasurer's Bond. Bill approved July 25th.....	15.00
Aug.	26	Check No. 79, W. F. Humphrey, Envelopes. Bill approved Aug. 15th.....	4.68
Aug.	26	Check No. 80, A. Lowenbein Printing Company, Typewritten Letters. Bill approved Aug. 15th.....	14.50
Sept.	22	Check No. 81, Faye Woobridge, Stenographic and Secretarial work to J. H. Voorhees, Chairman Legislative Committee, during month of June, 1924. Bill approved Sept. 18th, 1924.....	7.50
Oct.	2	Check No. 82, Marian Meikle, Reporting 34th Annual Conference at Philadelphia, July 1-7, 1924. Charge to expenses of Annual Meeting. Bill approved Sept. 29th.....	550.40
Oct.	31	Check No. 83, W. F. Humphrey, Letterheads and Envelopes. Bill approved Oct. 27th, 1924.....	27.10
Oct.	31	Check No. 84, Sessions Printing Company, Letterheads and Envelopes. Bill approved Oct. 27th, 1924.....	16.15
Oct.	31	Check No. 85, George G. Bogert, On account of appropriation for Secretary's office. Bill approved Oct. 27th, 1924.....	200.00
Nov.	14	Check No. 86, Emery and Norton, Premium on Bond for 1920. Bill approved Nov. 10th, 1924.....	15.00
Nov.	14	Check No. 87, George G. Bogert, Express charges paid. Bill approved Nov. 10th, 1924.....	7.96
Dec.	13	Check No. 88, The Colwell Press, Inc., Reprints of Mortgage Act. Bill approved Dec. 3rd, 1924....	62.50
Dec.	23	Check No. 89, George G. Bogert, On account of appropriation for Secretary's Office. Bill approved.	200.00
<i>1925</i>			
Jan.	12	Check No. 90, Miss Jean Smith, Expenses of President's Office. Bill approved Jan. 9th, 1925.....	150.28
Jan.	28	Check No. 91, The Atkinson Press, For Postal Cards and Printing. Bill approved Jan. 21st, 1925.....	7.50

Jan. 31	Check No. 92, Wade Millis, Traveling Expenses in connection with Incorporation Act. Bill approved Jan. 28th, 1925.	100.00
Jan. 31	Check No. 93, Robert S. Stevens, Traveling Expenses in connection with Incorporation Act. Bill approved Jan. 28th, 1925.	150.00
Jan. 31	Check No. 94, W. F. Humphrey, For Cartons and Mailing Reports. Bill approved Jan. 28th, 1925.	40.35
Jan. 31	Check No. 95, W. F. Humphrey, For Printing, binding and mailing Annual Report. Bill approved Jan. 28th, 1925.	1481.88
Feb. 6	Check No. 96, George G. Bogert, On account of appropriation of Secretary's Office. Bill approved Feb. 2nd, 1925.	200.00
Feb. 10	Check No. 97, J. Allen Davis, Expenses for attending Meeting of Uniform Motor Vehicle Act. Bill approved Feb. 4th, 1925.	249.46
Feb. 19	Check No. 98, The Colwell Press, Inc., Packing and Shipping Reports. Bill approved Feb. 12th, 1925.	73.12
Feb. 19	Check No. 99, W. F. Humphrey, Sundry Printing, Bill approved Feb. 12th, 1925.	409.75
Feb. 19	Check No. 100, Alta Fairbanks, For Stenographic and Secretarial work for Legislative Committee. Bill approved Feb. 20th, 1925.	41.25
Feb. 19	Check No. 101, Naomi Carpenter, for stenographic and secretarial work for Legislative Committee. Bill approved Feb. 20th, 1925.	36.00
Mar. 5	Check No. 102, Marion G. Raymond, Stenographic services for Committee on Uniformity of Judicial Decisions. Bill approved Feb. 20th, 1925.	150.00
Mar. 24	Check No. 103, George G. Bogert, On account of appropriation to Secretary's Office. Bill approved Mar. 19th, 1925.	200.00
Mar. 26	Check No. 104, W. H. H. Piatt, Expenses attending meeting of Commercial Section. Bill approved Mar. 19th, 1925.	68.03
Mar. 26	Check No. 105, Earle W. Evans, Expenses attending Meeting of Commercial Section. Bill approved Mar. 19th, 1925.	98.15
Mar. 26	Check No. 106, Samuel Williston, Expenses attending Meeting of Commercial Section. Bill approved Mar. 19th, 1925.	127.33
Mar. 26	Check No. 107, H. U. Sims, Expenses attending meeting of Torts and Criminal Law Section. Bill approved Mar. 19th, 1925.	73.40

Mar. 26	Check No. 108, Murray M. Shoemaker, Expenses attending Meeting of Property Section. Bill approved Mar. 19th, 1925.	61.12
Mar. 26	Check No. 109, Ellison G. Smith, Expenses attending Meeting of Uniform Property Section. Bill approved Mar. 19th, 1925.	62.24
Mar. 26	Check No. 110, Frank M. Clevenger, Expenses attending Meeting of Civil Procedure Section. Bill approved Mar. 17th, 1925.	51.26
Mar. 26	Check No. 111, George B. Rose, Expenses attending Meeting of Corporation Section. Bill approved Mar. 17th, 1925.	99.60
Mar. 26	Check No. 112, William M. Crook, Expenses attending Meeting of Corporation Section. Bill approved Mar. 17th, 1925.	135.97
Mar. 26	Check No. 113, William H. Folland, Expenses attending Meeting of Public Law Section. Bill approved Mar. 17th, 1925.	42.00
Mar. 26	Check No. 114, Hazen I. Sawyer, Expenses attending Meeting of Public Law Section. Bill approved Mar. 17th, 1925.	41.65
Mar. 26	Check No. 115, Walter C. Clephane, Expenses attending Uniform Social Welfare Section Meeting. Bill approved Mar. 17th, 1925.	88.58
Mar. 26	Check No. 116, Geo. B. Young, Expenses attending Meeting of Executive Committee. Bill approved Mar. 19th, 1925.	73.37
Mar. 26	Check No. 117, Henry M. Bates, Expenses attending Meeting of Executive Committee. Bill approved Mar. 19th, 1925.	49.89
Mar. 26	Check No. 118, Charles V. Imlay, Expenses of Committee on Fire Arms Acts. Bill approved Mar. 17th, 1925.	104.06
Mar. 26	Check No. 119, Charles V. Imlay, Expenses of attending Meeting of Section on Civil Procedure. Bill approved Mar. 19th, 1925.	104.50
Mar. 26	Check No. 120, Miss Jean Smith, Stenographic services for President's Office. Bill approved Mar. 17th, 1925.	76.30
Mar. 26	Check No. 121, Underwood Typewriter, Typewriter for Executive Committee. Bill approved Mar. 19th, 1925.	2.50
Mar. 26	Check No. 122, Jesse A. Miller, Attending meeting of Executive Committee. Bill approved Mar. 19th, 1925.	114.83

Mar. 26	Check No. 123, Jesse A. Miller, Stenographic and other services for Executive Committee. Bill approved Mar. 19th, 1925.	94.00
Mar. 26	Check No. 124, Chester I. Long, Expenses attending Executive Committee Meeting. Bill approved Mar. 19th, 1925.	63.20
Apr. 6	Check No. 125, K. N. Llewellyn, Expenses attending Meeting of Uniform Commercial Acts. Bill approved April 2nd, 1925.	118.02
Apr. 6	Check No. 126, Harrison A. Bronson, Expenses attending Meeting of Uniform Property Section. Bill approved April 2nd, 1925.	113.00
May 2	Check No. 127, Marion G. Raymond, Services rendered Committee on Uniformity of Judicial Decisions. Bill approved April 27th, 1925.	150.00
May 7	Check No. 128, Hazen I. Sawyer, Expenses attending Meeting of Public Law Section. Bill approved April 16th, 1925.	60.38
May 15	Check No. 129, Nathan Wm. MacChesney, Attending Meeting of the American Bar Association in New York City. Bill approved May 11th, 1925. .	214.61
May 15	Check No. 130, Miss Jean Smith, Sundry Expenses of President's Office. Bill approved May 11th, 1925.	81.82
May 15	Check No. 131, William E. Britton, Attending Meeting of Committee on Uniform Chattel Mortgage Act. Bill approved April 22nd, 1925.	36.62
May 15	Check No. 132, L. C. Spieth, Expenses in representing Mr. Carmon at Meeting of Committee of Uniform Chattel Mortgage Act. Bill approved April 22nd, 1925.	53.00
May 15	Check No. 133, H. G. W. Dinkelspiel, Expenses attending Meeting of Committee on Uniform Chattel Mortgage Act. Bill approved April 22nd, 1925.	253.04
May 15	Check No. 134, Karl N. Llewellyn, Expenses attending Meeting of Committee on Uniform Chattel Mortgage Act. Bill approved April 22nd, 1925. .	235.00
May 15	Check No. 135, Hazen I. Sawyer, Attending Meeting of Public Law Section. Bill approved April 22nd, 1925.	25.64
May 15	Check No. 136, Chester I. Long, Expenses attending Meeting of Public Law Section. Bill approved May 12th, 1925.	46.20

May 15	Check No. 137, Miss C. L. McGuiness, Stenographer at Meeting of Public Law Section \$119.66, Committee on State Inheritance Tax Act \$109.50, Bill approved May 11th, 1925.....	229.16
May 15	Check No. 138, George M. Hogan, Expenses attending Meeting of Chattel Mortgage Act. Bill approved April 22nd, 1925.....	235.05
June 1	Check No. 139, S. R. Child, Expenses attending Meeting on Uniform Mortgage Law. Bill approved May 28th, 1925.....	45.32
June 1	Check No. 140, James M. Graham, Expenses attending Meeting on Uniform Mortgage Act. Bill approved May 28th, 1925.....	32.35
June 1	Check No. 141, Hollis R. Bailey, Expenses attending Meeting on Uniform Mortgage Law. Bill approved May 28th, 1925.....	121.76
June 1	Check No. 142, Donald E. Bridgman, Expenses incurred as Draftsman for Uniform Mortgage Committee. Bill approved May 28th, 1925.....	63.82
June 1	Check No. 143, Hazen I. Sawyer, Expenses as Chairman on Public Utilities Act Committee. Bill approved May 28th, 1925.....	174.87
June 2	Check No. 144, George B. Young, Expenses attending meeting of the Uniform Public Law Section. Bill approved June 12th, 1925.....	70.92
June 15	Check No. 145, N. W. MacChesney, Expenses of Mid-winter Meeting in Chicago. Bill approved April 16th, 1925.....	71.08
June 19	Check No. 146, George G. Bogert, On account of expenses of Secretary's Office. Bill approved June 17th, 1925.....	200.00
June 30	Exchange to date.....	8.30
Total disbursements.....		\$11017.90
Total receipts.....		\$13245.24
Balance, June 30th, 1925.....		\$ 2227.34

NOTE: Check No. 146 for \$200.00 had not been presented to the bank at the time of the making up of this report. Adding the amount of this check to the balance shown above, gives \$2427.34, the balance on deposit in bank as of June 30th, 1925, as per certificate of the bank annexed hereto as part of this report.

W. O. HART,
Treasurer.

New Orleans, La.
June 30, 1925.

This is to certify that the balance to the credit of the National Conference of Commissioners on Uniform State Laws on the books of the Poydras Street Branch of the Whitney-Central Trust & Savings Bank is the sum of \$2,427.34.

GEO. M. METHINGI,
Assistant Cashier.

EXECUTIVE COMMITTEE REPORT

Report of the Proceedings of the Executive Committee since the 1924 Conference:

Your Executive Committee submits the following report of its proceedings since the last report to the Conference:

At the time of the mid-winter meeting of the Sections and Special Committees having under consideration various uniform acts, at the LaSalle Hotel, Chicago, Illinois, February 25th and 26th, 1925, the Executive Committee held a two days' session. All members of the committee were present in Chicago, except Treasurer Hart. At this meeting a number of subjects pertaining to the Conference and its work came before the committee, and after full consideration action was taken as now reported.

President MacChesney presented the situation with respect to the Uniform Standard State Mechanic Lien Act, which has been proposed by the Department of Commerce of the United States, and reported that he had appointed a committee on the subject, and named Commissioner Imlay as Chairman. His action was ratified by the Executive Committee.

It was voted that whenever any matter is referred to the President of the Conference by the Department of Commerce, or by any other federal governmental department, the President of the Conference shall forthwith refer the matter to an appropriate Section and a Special Committee and notify the Chairman of the Executive Committee, the Chairman of the Committee on Scope and Program and the Secretary of his action. It was also voted that when the President appoints a special committee it is to be attached to the appropriate Section and be under the jurisdiction of the Chairman of the Section.

President MacChesney announced that he had designated Commissioner Richards as an additional member of the Incorporation Act Committee, and Mr. Richards was requested to sit with the Committee during the remainder of the year.

Commissioner O'Connell reported regarding the conferences at Washington with respect to the Regulation of the Use of Highways by Vehicles, and stated that the United States Department of Com-

merce had indicated its desire to have the co-operation of the Conference in drawing up such a uniform act. Commissioner O'Connell was thereupon requested to serve as an extra member of the Public Law Section and Committee on the Use of Highways by Vehicles throughout the remainder of the Conference year.

President MacChesney presented the subject of a Uniform State Inheritance Tax Law, a model act being now under consideration by the National Tax Association. The matter was referred to the Committee on Scope and Program, which committee subsequently reported that it had approved the consideration by the Conference of the subject of the Uniform State Inheritance Tax Law and recommended that it be referred to an appropriate Section and Committee. The Executive Committee approved the recommendation and President MacChesney referred the subject to the Public Law Section, and appointed Commissioner Armstrong of Maryland chairman of the special committee.

President MacChesney reported that the National Association of Real Estate Boards had indicated that it might possibly be interested in the legislative program of the Conference. President MacChesney brought up the question of the functions of the Committee on Scope and Program, and suggested that the members of that committee be appointed by the President. It was voted that Commissioner Young be made a committee of one to submit, at the first meeting of the Executive Committee at Detroit, an amendment to Article III of the Constitution, making the Committee on Scope and Program appointive; and that he consider possible amendments to the Constitution regarding the Secretary and an Executive Secretary, and that he include in his work of revision of the Constitution and By-Laws a draft for making the provisions regarding Sections and Committees a part of the Constitution.

Commissioner Millis presented a report regarding hotel accommodations in Detroit, and after consideration it was decided to hold the Conference at the Hotel Statler in Detroit. It was further decided that the first meeting of the Executive Committee, at the 1925 Conference, should be held at the Hotel Statler at nine o'clock a. m., August 25th, and that the opening session of the Conference be held at ten-thirty o'clock a. m. on the same day and at the same place.

The Secretary was requested to at once advise the Commissioners of the time and place of the holding of the Annual Meeting of the Conference, and that the Hotel Statler would be the headquarters.

The action of President MacChesney in appointing the Committee on Entertainment at Detroit was ratified. The Executive Committee gave a vote of thanks to Commissioner Millis for his efforts in obtaining information in regard to hotel accommodations, and through him to the Entertainment Committee its appreciation for the plans of the Detroit Bar for the entertainment offered by it.

Commissioner Hargest reported for the Committee on Uniformity of Judicial Decisions that he had been negotiating regarding proper citations of Uniform State Laws by law publishers, and that he had been informed that a table of comparative references to the Uniform State Laws would greatly assist the publishers in proper reference. The Committee by vote requested Chairman Hargest to continue his work in preparing a complete reference table, and the Committee also voted to request the Committee on Uniformity of Judicial Decisions to continue its annotations of the Uniform Acts and to send to respective intermediate and final courts of appeal its annual report in pamphlet form with a letter to each presiding judge calling attention to the local decisions. By vote the Secretary was requested to investigate the ownership of Mr. Terry's book on Uniform State Laws and the condition of the royalty account, to report to the Executive Committee, collect any balance due the Conference and turn it over to the Treasurer.

Reports were received from Commissioners Clevenger, Imlay, Sims, Clephane, Freund, Bronson, Childs, Sawyer, Ryall, Hinkley and Long regarding the Sections and Committees of which they are respective chairmen as to the progress of their work and also as to whether additional funds were needed.

The Committee voted that the Section on Social Welfare and the Committee on Child Labor proceed to report their act, which shall incorporate in it, the standards and age limitations (upon which it is unlikely that absolute agreement can be secured), using for that purpose the high standards which it is thought they can obtain and leaving it to the states which do not adopt them to eliminate or lower such standards if they do not care to accept them.

The Uniform Primary Act for Federal Officers was referred back to the Uniform Public Law Section. It was voted that an additional appropriation of \$700.00 be made to the Section on Public Law, and \$500.00 to the Incorporation Act Committee; and that if sufficient funds were available, in the opinion of the Chairman of the Executive Committee, that an additional appropriation of \$300.00 be made to the Chattel Mortgage Act Committee, and \$150.00 to the Publicity Committee. It was also voted that the expenses of the Commissioners in attending the meeting at Chicago be paid by the Conference whether the committee appropriations were sufficient for this purpose or not; except that where state appropriations could be used to pay such expenses the commissioners be requested to use such funds. The expense for printing the Handbook for 1924 having exceeded the appropriation made for that purpose, it was voted that the action of the Chairman of the Executive Committee approving the expense be ratified.

The President of the Conference was requested to take up with the President of the American Bar Association the conflict between the work of the Conference and the work of the Committee on Trade and Commercial Law of the American Bar Association, and endeavor to secure an adjustment of such conflicts.

It was voted that the Uniform Arbitration Act be referred back to the Conference Committee on Arbitration for a report at the next annual Conference, and that the President of the Conference report to the American Bar Association regarding this act, and endeavor to have it printed and distributed to the American Bar Association so that it may be considered at the September, 1925 meeting in accordance with the resolution of the American Bar Association of July 9, 1924.

Mr. Voorhees was requested by the Committee to prepare a formal written report on the means of increasing the effectiveness of the co-operation of the American Bar Association, such report to be sent to the members of the Executive Committee and to be considered at its next meeting.

The Secretary was authorized to print a sufficient supply of the 1925 committee reports to furnish Commissioner Young as Chairman of the Committee on co-operation with copies to be placed at the disposal

of the United States Chamber of Commerce. It was voted that the editing of the proceedings in the Committee of the Whole by the Secretary be continued.

The Committee found that many advantages result from the holding of the mid-winter meetings of all the working committees at one time and place and believes that the practice should be continued.

The Executive Committee expresses to the chairmen and members of the various sections and committees its hearty appreciation of the time and work devoted by the Commissioners to the several acts which the committees have under consideration. Each year there appears to be an increasing interest in the subject of uniform state legislation. The Commissioners should ever keep in mind that the acts which are placed before legislatures of the various states should be the very best that can be worked out by the Conference. That is the only way in which the high standard of the work can be maintained. The Committee believes that the Commissioners realize that the result to be aimed at is not quantity but quality. May it ever be so.

Respectfully submitted,

JESSE A. MILLER,

Chairman, Executive Committee.

Des Moines, Iowa,
July 28, 1925.

MINUTES OF MEETING OF THE EXECUTIVE COMMITTEE HELD AT THE HOTEL STATLER, DETROIT, MICHIGAN, AUGUST 24, 1925, 9 P. M.

Present: Messrs. MacChesney; Young; Hargest; Long; Bogert.

1. Voted that Senator Long act as Chairman of the Executive Committee.

2. Voted that Friday afternoon at 5 P. M., be fixed as the time to be recommended tomorrow to the Memorial Committee for the holding of Memorial Services.

3. Voted that the President be authorized to appoint a committee to make arrangements for the Memorial Services.

4. The Executive Committee recommended the following two alternatives to the program as printed:

1. The Acts be considered in the following order and on the following days:

TUESDAY, AUGUST 25th.

9:30 A. M. First Session

Address of Welcome

Response of President

Roll Call

Reading of Minutes of Last Meeting

Address of the President

Report of the Secretary

Report of the Treasurer

Report of the Executive Committee

Appointment of Committees on Memorials

Report of Standing Committees

Scope and Program

Educational and Publicity

Legislative

Appointment of and attendance by Commissioners

Reports of General Committees

Legislative Drafting

Uniformity of Judicial Decisions

Cooperation with Other Organizations Interested in
Uniform State Laws
Cooperation with American Law Institute
Reports of Special Committees Presenting no Drafts for
Consideration
Uniform Sale of Securities Act
Uniform State Trademark Act
Uniform Real Property Acts
Uniform Act for Joint Parental Guardianship of Children
Uniform Sanitary Bedding Act
Uniform Marriage and Divorce Act
Uniform Act for Compacts and Agreements Between States
Uniform Aeronautics Act
Uniform Incorporation Act
Uniform Act for Securing Compulsory Attendance of
Non-Resident Witnesses
Uniform Mechancis Lien Act

2:00 P. M. Second Session

Uniform Arbitration Act
Uniform Industrial Disputes Act
Uniform Federal Primary Act
Uniform Inheritance Tax Act
Uniform Public Utilities Act
Uniform Vehicle Act

WEDNESDAY, AUGUST 26th

9:30 A. M. Third Session
Uniform Vehicle Act

2:00 P. M. Fourth Session
Uniform Vehicle Act

THURSDAY, AUGUST 27th

9:30 A. M. Fifth Session
Report of Nominating Committee
Uniform Mortgage Act

2:00 P. M. Sixth Session
Uniform Mortgage Act

FRIDAY, AUGUST 28th

- 9:30 A. M. Seventh Session
Uniform Acknowledgments Act
Williston's Three Acts
Uniform Extradition Act
Uniform Federal Tax Lien Registration Act.
2:00 P. M. Eighth Session

SATURDAY, AUGUST 29th

- 9:30 A. M. Ninth Session
Uniform Firearms Act
Uniform Chattel Mortgage Act

MONDAY, AUGUST 31st

- 9:30 A. M. Tenth Session
Uniform Chattel Mortgage Act
2:00 P. M. Eleventh Session
Uniform Trust Receipts Act
Uniform Drug Act
Uniform Act for One Day of Rest in Seven
Uniform Child Labor Act

2. That the acts be considered in the order above mentioned but that no time limit be assigned to any act and that they be considered in calendar form.

MEETING OF EXECUTIVE COMMITTEE HELD AT
HOTEL STATLER, DETROIT, MICHIGAN,
AUGUST 25, 1925 AT 9 A. M.

Present: Chairman Miller; Bogert; Long; MacChesney; O'Connell; Voorhees; Young.

1. Voted that the Chattel Mortgage Act be advanced to the session on Saturday morning and that the Uniform Trust Receipts Act be made the first thing on the Monday morning program to be followed by the Uniform Firearms Act.

2. Voted that the report of the Nominating Committee be placed at the end of the Thursday afternoon session instead of the beginning of the Thursday morning session.

3. Voted that the Friday afternoon program contain the Memorial Service and the names of the deceased Commissioners.

4. Voted that the reports under the Public Law Section be considered in the following order.

Uniform Tribunal to Determine Industrial Disputes

Uniform Primary Act

Uniform State Inheritance Tax Act

Uniform Public Utilities Act

Uniform Act Governing Use of Highways by Vehicles

5. Voted that instead of adopting the calendar system that we adopt the form, as printed on the revised program, assigning particular Acts to particular days.

MEETING OF THE EXECUTIVE COMMITTEE HELD AT
HOTEL STATLER, DETROIT, MICHIGAN,
AUGUST 25, 1925, AT 8 P. M.

Present: Chairman Miller; Bogert; Hart; Hargest; Long; MacChesney; O'Connell; Young.

1. Voted that invitation to become an Associate Member of The Arbitration Foundation, Inc., be declined upon the ground that such action would not be within scope of the purposes of the Conference.

2. Voted that it is not within scope of this Conference to endorse the World Court and that Miss Esther E. Lape be notified accordingly.

3. Voted that, upon the Secretary satisfying himself with respect to the responsibility of Mr. Doane Eaton, that the Secretary be authorized to allow Mr. Eaton to insert the name of the Conference in his book.

4. Voted that Mr. Loeser's letter regarding some improvements in the laws in the various states having to do with franchise taxes assessed against foreign corporations be referred to the Uniform Corporation Acts Section.

5. Voted that Mr. C. J. Fay's letter suggesting an amendment to the Uniform Negotiable Instruments Act be referred to the Section on Commercial Acts.

6. Voted that the Conference ascertain, if possible, whether or not the Bar Association provides for a trip to the Ford Plant, and if that be the case, in view of the crowded condition of the calendar that we should appreciatively but regretfully decline the invitation.

7. Voted that Mr. Voorhees be appointed to confer with Mr. Millis regarding the trip to the Ford Plant.

8. Voted that the question of co-operating with the Edward Thompson Company with respect to printing acts regarding judicial decisions be postponed until the Conference obtains definite information.

9. Voted that the President of the Conference and the Commissioners in the District of Columbia be requested to confer with the War Department regarding representation of the Canal Zone in the Conference and the adoption of uniform acts in the Canal Zone.

10. Voted that Commissioner Folland of Utah be requested to act as Associate Secretary.

11. Voted that Mr. Voorhees be requested to prepare and present a letter to the American Bar Association regarding more active co-operation on the part of the Bar Association with the Conference.

12. Voted that time be designated by the Chairman of the Executive Committee to allow Mr. Voorhees to read the supplemental report of the Legislative Committee.

13. Voted that the name of the Uniform Drug Act be changed to Uniform Narcotic Drug Act.

14. Voted that Uniform Public Service Act be changed to Uniform Public Utilities Act to conform with request of Committee.

15. President MacChesney extended his thanks to the Executive Committee for the cordial support given him as President of the Conference.

MINUTES OF THE MEETING OF THE EXECUTIVE
COMMITTEE HELD FRIDAY, AUGUST 28, 1925—
HOTEL STATLER AT 11 P. M.

Present: Chairman Miller; and Messrs. Young; Long; Voorhees; Hart; MacChesney; Hargest and Bogert.

Voted to recommend to the Conference that no Session be held Saturday afternoon, August 29th, but that the Conference meet from 8 to 10 P. M., August 29th.

Voted that the Executive Committee hold a meeting Sunday evening, August 30th.

Voted to refer to the Committee on Scope and Program a communication received with respect to a uniform law on cooperative marketing.

Voted to refer to the Committee on Scope and Program a communication received by the President on the subject of the prohibition amendment and statute.

MEETING OF THE EXECUTIVE COMMITTEE HELD AT
THE HOTEL STATLER, DETROIT, MICHIGAN—
AUGUST 30, 1925.

Present: Chairman Miller; Bogert; Hart; MacChesney and Young.

Voted that in the preparation of the next Handbook that there be included the Acts, as amended at this Conference, with a statement to that effect and reference to the pages at which the discussion with reference to the acts may be found, and that there shall be eliminated from the reports of the Committee of the Whole all references to mere typographical or verbal changes, retaining that part of the discussion which has reference to the reasons for the changes or legal questions involved or matters of principle.

Mr. Bogert reported that he had received a telegram from the Edward Thompson Company reading as follows:

"This Company would prepare and supply for use of your Conference bare citations of all Uniform Law decisions annually in the same form as in 1924 reports gratis. Editorial supervision and clerical work cost us

several hundred dollars but would gladly contribute this to Conference provided suitable recognition is given to this Company. We assume that no wider distribution of report would be made than heretofore so there may be no conflict with our Commercial Supplement. M. B. Wailes."

whereupon the Executive Committee voted to recommend to the Conference the acceptance of this offer and that the Conference express to the Edward Thompson Company its appreciation of the generous courtesy of that Company.

Voted that the suggestion of having a Committee on the development of the law relating to oil wells be referred to the Committee on Scope and Program to report at the 1926 mid-year meeting and that the Committee communicate with Mr. Bridgman with respect to this matter.

Voted to accept Mr. Crook's suggestion that the pictures of the former officers of the Conference be accumulated in our files for such use as may be made of them from time to time.

Voted that the Secretary report by mail to the Chairman of the Executive Committee as to what it would cost to get the plates and to print the pictures of the deceased officers in the Handbook.

Voted that the Secretary be requested to gather together a biographical sketch of each member of the Conference and later report on the feasibility of printing part of same in the Handbook.

Voted that the Chairman of the Executive Committee be authorized to transfer unexpended portions of the appropriations to other Sections or Committees or offices as in his judgment may be desirable.

Voted that the Executive Committee, having considered the petition signed by Messrs. Crook, Hammond, Hogan, Dixon, Cabaniss and Ailshie recommend to the Conference that Professor Williston be requested to prepare an appropriate statement to accompany the Written Obligations Act, as requested by these gentlemen.

Voted that Commissioners Crook, of Texas, and Sims, of Alabama, be appointed a committee to prepare the material for the engrossed resolution relative to the visit of the Conference to Ann Arbor.

Voted that the expenses of the members of the Public Law Section necessarily attending the conferences arranged by the Department of Commerce with respect to the Uniform Act Governing the Use of Highways by Vehicles be paid out of the appropriation of the Public Law Committee.

Voted that the Chairman of each Section be requested to consult with the chairman of his Committees and report to the Chairman of the Executive Committee as to the division of the funds appropriated to his Section.

Voted that the following budget be recommended to the Conference for approval.

PROPOSED APPROPRIATIONS

1. Printing Annual Proceedings	\$1500
2. Printing Committee Reports	900
3. Reprinting Acts	300
4. President's Office	300
5. Secretary's Office	2000
6. Treasurer's Office	100
7. Chairman—Executive Committee's Office	300
8. Legislative Committee	200
9. Appointment of and Attendance by Commissioners	75
10. Public Information Committee	400
11. Uniformity of Judicial Decisions	100
12. Commercial Acts Section	400
13. Property Acts Section	750
14. Public Acts Section	1000
15. Social Welfare Acts Section	500
16. Corporation Acts Section	500
17. Torts and Criminal Law Section	500
18. Civil Procedure Section	500
19. Annual Meeting	1000
20. Mid-winter Meeting	750
21. Contingent Appropriations	500
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	\$12575

MINUTES OF THE EXECUTIVE COMMITTEE HELD AT
THE HOTEL STATLER, DETROIT, MICHIGAN,
AUGUST 31, 1925, at 6 P. M.

Present: Chairman Miller; Chandler; Hardin; Beers; Hargest; MacChesney; Young; Hart; Voorhees and Bogert.

Voted to request Mr. MacChesney to present to the Executive Committee of the American Bar Association the resolution of the Conference with respect to the request for the appointment of an American Bar Association Committee to assist in each state in procuring the adoption of Uniform State Laws.

Voted to request Mr. Young and Mr. MacChesney to present to the Executive Committee of the American Bar Association the request of the Conference for financial support for the ensuing year.

TO THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

The Committee Scope and Program reports as follows:

A memorandum was submitted to the committee in behalf of one hundred and seventy-five (175) charitable, missionary, benevolent and educational corporations, calling attention to the fact that many thousands of dollars in bequests are lost to those corporations because there is no notice required in a large number of the States of the probates of wills. They ask that a uniform act be drafted to require some notice to be given to legatees and devisees at the time of the probate. Your Committee thinks that this is a proper matter for consideration by a committee, and recommends that a special committee be appointed under the Civil Procedure Section.

The Department of Commerce at Washington has called to the attention of the President of the Conference the fact that a hardship exists because of the different requirements of the various States, relating to containers of milk and cream which, in some instances, prevent the shipment from one State to another and impose a hardship upon such shipment of one of the necessities of life. It is suggested that the Conference consider a uniform law for the standardizing of laws for milk and cream containers. The committee recommends that the subject be considered, and a committee be appointed, under the Uniform Commercial Law Section.

Judge Marx, of the Superior Court of Cincinnati, has called the attention of the Committee to the need for compulsory compensation insurance covering the operation of motor vehicles on public highways and suggested the advisability of a uniform law upon the subject. Articles concerning this subject have appeared in the *Columbia Law Review* and the *American Bar Association Journal*. Acts have already been introduced into some of the States, but we are not advised that any have yet been passed. The Committee thinks it is a proper subject for consideration and therefore recom-

mends that it be referred to a committee to be appointed under the Public Law Section.

Committee begs leave to submit a further report at a later session of this Conference.

August, 1925. WILLIAM M. HARGEST,
Chairman.

SUPPLEMENTAL REPORT
OF THE
COMMITTEE ON SCOPE AND PROGRAM
TO THE
NATIONAL CONFERENCE OF COMMISSIONERS
ON
UNIFORM STATE LAWS

The General counsel and secretary of the American Farm Bureau Federation submitted to the committee the necessity of uniform legislation dealing with cooperative marketing, which has developed throughout this country largely within the last ten years. It appears that all of the States have some legislation upon this subject and forty of them have definite statutes known as "Cooperative Marketing Statutes." The decisions have been rendered within the last decade, the Secretary says:

"A good background of experience has been developed in the actual practice of cooperative buying and selling of agricultural products, machinery, equipment and supplies, and many decisions of courts of last resort have been rendered in the last decade, particularly in the last four years. This Co-operative movement has become very wide spread and comprehends a vast business which will probably aggregate in the neighborhood of three billion dollars during the present year. It has assumed such importance that we cannot disregard the demands it is making upon the best thought of the country, both legal and economic."

This committee recommends that a committee, under the Uniform Commercial Acts Section, be appointed to consider this subject and if deemed advisable to report a tentative draft of an act to the Conference.

Commissioner W. O. Hart requested that the committee recommend to the Conference the advisability of considering the draft of a Uniform Law which will carry out the provisions of the Act of Congress of February 3, 1887, regarding contested Presidential elections. This Act of Congress provides that the States may determine what Presidential electors are regularly elected in the event of a contest, so that the situation which arose in the Hayes-Tilden controversy could not be repeated. This committee is of opinion that the matter is one in which uniformity should not be undertaken by the Conference at this time.

Commissioner W. M. Crook referred to the committee a request which had come to him for a Uniform Act upon the subject of Fire Insurance. The matter, however, has come before this committee in such an indefinite shape that the committee can make no recommendations upon the subject.

The same is true of a letter from Dr. Robert Lockhart, District Commissioner of Cuyahoga County, Board of Health, Ohio, with reference to the health insurance.

There was also referred to the committee a letter of Miss Mary L. Lathrop, Denver, Colorado, with reference to consideration of Uniform Acts relating to the delinquency and dependency of children, but the reference is so general and indefinite that the committee can make no recommendation upon the subject.

This committee recommends that where there is a revision of an Act which has been heretofore recommended by the Conference and which has been adopted in one or more States, that the new Uniform Law contain in its title the word "revised" but where there is a revision of an Act which has not been adopted in any state, the word, "revised" should not be inserted in the title.

WILLIAM M. HARGEST,
Chairman.

August, 1925.

REPORT
of
THE LEGISLATIVE COMMITTEE

To the National Conference of Commissioners on Uniform State Laws:

Since the last annual meeting of the Conference (at Philadelphia in July, 1924), legislative sessions have been held, or are being held, in all of the states except the following: Alabama, Kentucky, Louisiana, Maryland, Mississippi and Virginia.

There have so far been reported to the Legislative Committee twelve adoptions of Uniform Acts and five adoptions of amendments to Uniform Acts as follows:

Idaho: Aeronautics Act, Fiduciaries Act, and Amendments to Warehouse Receipts Act.

New York: Fraudulent Conveyance Act, and Illegitimacy Act.

Ohio: Amendments to Sales Act, and Amendments to Warehouse Receipts Act.

Pennsylvania: Conditional Sales Act.

South Dakota: Aeronautics Act, Declaratory Judgments Act and Limited Partnership Act.

Utah: Declaratory Judgments Act, Fiduciaries Act, and Fraudulent Conveyance Act.

Wisconsin: Fiduciaries Act, Amendments to Sales Act, and Amendments to Warehouse Receipts Act.

In Tennessee the Stock Transfer Act was re-adopted to cure a defect in the title of the Act as adopted in 1917.

The Committee is glad to be able to inform the Conference of the continued interest of the Commercial Law League of America in the work of the Conference and of the activity of the members of the Committee of the League on Legislation and of its sub-committees in cooperating with the Commissioners of the Conference in their work.

For the information and assistance of the Commissioners in their work, the Committee calls attention to its reports made at the 1921 and 1922 meetings of the Conference which contain various suggestions intended to aid the Commissioners in what is perhaps the most important part of their work, to-wit, the securing of the adoption by their respective legislatures of Uniform Acts, and the Committee calls the attention of new Commissioners to two circular letters which were sent by the Committee under dates of December 7th and 12th, 1922, to the Commissioners of the states in which legislative sessions were to be held in 1923, copies of which letters will be furnished by the present Chairman of the Committee on request.

Respectfully submitted:

JOHN H. VOORHEES, *Chairman*
WALTER P. ARMSTRONG
GEORGE A. BOURGEOIS
HARRY L. CRAM
T. A. HAMMOND
FRANK PACE
J. O. SETH

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

Dated July 15, 1925.

SUPPLEMENTAL REPORT OF THE LEGISLATIVE COMMITTEE FOR THE YEAR 1924-1925

*To The National Conference of Commissioners on Uniform State
Laws:*

The Legislative Committee has thought it worth while, in addition to the information given in its formal report dated July 15, 1925, to be presented to the Conference at its present meeting at Detroit and to be printed in the Handbook of that meeting, to give the following information with regard to the situation and activities in the various states in which legislative sessions were held in 1925.

ARIZONA. The Declaratory Judgments Act, the Fiduciaries Act, and the Partnership Act were introduced. The Senate Judiciary Committee recommended the passage of the Declaratory Judgments Act and the Fiduciaries Act, the latter with a slight amendment, and recommended that the Partnership Act be indefinitely postponed. The Senate passed the Declaratory Judgments Act and the Fiduciaries Act, but too late to enable the Commissioners to secure final action on them by the House before adjournment.

ARKANSAS. No Uniform Acts were adopted, and it is understood that because of legislative conditions the Commissioners did not deem it advisable to have any introduced.

CALIFORNIA. The result in California was both encouraging and disappointing. The Commissioners had the following Uniform Acts introduced, to-wit: Aeronautics Act, Limited Partnership Act, Partnership Act, Proof of Statutes Act, Sales and Stock Transfer Act, and also the act giving official status to the commission. All of those acts passed the legislature except the Aeronautics Act and the Stock Transfer Act by practically a unanimous vote. The Governor, however, vetoed all of them. The reason given by the Governor for vetoing the acts was that although he is in favor of Uniform Acts as such these laws are impossible in California by reason of the very nature of its legislative system and that it was probable that the laws would be

amended in the next session of the legislature, and that unless there could be some assurance that subsequent legislatures will not amend Uniform Laws there is no reason for repealing existing law only to have such law changed from legislature to legislature. This reason is without force in view of the history of California legislatures with respect to Uniform Laws that have been adopted in that state. The Warehouse Receipts Act adopted in 1909, the Negotiable Instruments Act adopted in 1917, and the Bills of Lading Act adopted in 1919 have not been amended except by the adoption in 1923 of the amendment to the Warehouse Receipts Act prepared by the Conference. It is probable that nothing can be accomplished in California by the commission until there is a change in the office of Governor.

COLORADO. Owing to the retirement from the Colorado commission of Mr. O'Donnell and the death of his successor on the commission, Mr. Fry, and the fact that the Colorado commission was not reorganized in time for it to endeavor to secure the passage of additional Uniform Acts, nothing was accomplished in Colorado. It is understood that no Uniform Acts were introduced.

CONNECTICUT. The Connecticut Commissioners placed before the Judiciary Committees of the legislature four Uniform Acts, to-wit: Foreign Depositions Act, Foreign Probated Wills Act, Extradition of Persons of Unsound Mind Act, and Partnership Act. The legislature adjourned without passing any of these acts. The legislative Committee is not advised if any of these acts were reported out favorably by the Judiciary Committees.

DELAWARE. No Uniform Acts were introduced.

FLORIDA. No report has been received.

GEORGIA. No report has been received.

IDAHO. In addition to the adoption of the Aeronautics Act, the Fiduciaries Act, and the Amendments to the Warehouse Receipts Act there was introduced the Conditional Sales Act. So much local objection to that act, however, developed that it was not considered by the legislature. Commissioner Haga of Idaho in his letter of report made the following interesting statement:

"The uniform foreign depositions act, the uniform proof of statutes act, and the act providing for probate in this state of probated foreign wills and

the act relative to wills executed without this state are covered by present statutes in substantially the same form as the uniform acts provide for."

This statement is interesting because it doubtless correctly describes the situation in many other states. It is probable that a careful comparison of the present statutes of many of the states with these particular Uniform Acts would show that in some cases the statute is substantially identical with the act, at least to such an extent that the state should perhaps be entitled to credit for the adoption of an additional Uniform Act.

ILLINOIS. The Aeronautics Act and the Illegitimacy Act were introduced but neither was adopted. The Aeronautics Act failed because the legislature had before it a more comprehensive measure on the subject. The Illegitimacy Act failed because of opposition to it.

INDIANA. No Uniform Acts were introduced.

IOWA. No Uniform Acts were introduced because the commissioners deemed the situation in the legislature hopeless with respect to legislation of this character. The legislature, it is reported, broke all precedents in the state as a "do nothing" legislature.

KANSAS. No acts were passed, and it is understood none were introduced.

MAINE. The Stock Transfer Act was introduced but failed to pass. The opposition seemed to come from lawyers in the legislature who are extremely conservative and opposed to Uniform State Legislation when it makes a change in the law of the state.

MASSACHUSETTS. The Declaratory Judgments Act and the Conditional Sales Act were presented. On an extended hearing before the Judiciary Committee some opposition developed to the Declaratory Judgments Act, and further opposition was presented to the Conditional Sales Act. The Judiciary Committee recommended that both acts be referred to the next legislature, which recommendation prevailed. Commissioners are hopeful of having the Declaratory Judgments Act adopted at the next legislature, which will convene in January, 1926. An Arbitration Act was adopted this year in Massachusetts. It is, however, materially

different from the Uniform Arbitration Act that was approved by the Conference in 1924 and is to be reconsidered at this meeting.

MICHIGAN. No Uniform Acts were adopted.

MINNESOTA. The Declaratory Judgments Act was introduced. Some opposition to it developed in the Judiciary Committee of the House. Because the Minnesota commissioners, owing to enforced absences from the state, were unable to give the matter personal attention the act remained in the committee.

MISSOURI. The Declaratory Judgments Act and the Sales Act were introduced and pressed by the commissioners for passage. Opposition developed to these acts and also to some measures which were sponsored by the state and the St. Louis and Kansas City Bar Associations. The opposition seemed to be based largely on the reason that these were all acts promoted and urged by lawyers and bar associations. As a result none of them were adopted, and the two Uniform Acts that were introduced were not reported out by the committees to which they were referred. The Missouri commissioners feel confident, however, that the friends of uniform state legislation in Missouri are rapidly increasing and that there will be a change in the attitude of the ordinary legislator within the next session or two.

MONTANA. No Uniform Acts were adopted, and it is understood that none were introduced.

NEBRASKA. No Uniform Acts were introduced. The activities of the State Bar Association and the local bar associations were confined to bills introduced to aid the State Supreme Court. As the Nebraska commissioners were unable to obtain any assistance from the state and local bar associations, they deemed it inadvisable to have any Uniform Acts introduced.

NEVADA. The Uniform Arbitration Act was introduced and adopted. It is understood that the act is in the form of the act that was approved by the Conference at its meeting in 1924. No other Uniform Acts were introduced.

NEW HAMPSHIRE. No Uniform Acts were introduced. The reason the New Hampshire commissioners deemed it inadvisable

to have any Uniform Acts introduced is given in a letter from commissioner McLane as follows:

"There is at the present time a considerable amount of hostility to the idea of the Uniform State Laws and at the last meeting of the State Bar Association the Chief Justice of the Supreme Court, Honorable Robert J. Peaslee, made a rather severe criticism based upon the idea that it is impracticable in most branches of the law to legislate in a uniform manner to fit the economic and social and historic conditions of the different states; also that the decisions of the law courts in the different states soon upset the uniform feature of the act by inconsistent interpretations.

"The Chief Justice carries great weight with the members of the Bar and for this reason it seemed best to let matters rest quietly this year."

NEW JERSEY. No Uniform Acts were adopted, and it is understood that none were introduced.

NEW MEXICO. No Uniform Acts were adopted and it is understood none were introduced. The legislative houses were controlled by different political parties, and there was a contest in the courts over the office of governor. For those reasons the commissioners deemed it impossible to secure the adoption of any Uniform Acts this year.

NEW YORK. The Act for Extradition of Persons of Unsound Mind, the Fraudulent Conveyance Act, and the Illegitimacy Act were introduced. The Fraudulent Conveyance Act was adopted. Instead of passing the Illegitimacy Act as introduced the legislature passed an act relating to children born out of wedlock, which it is understood embodies practically all of the features of the Illegitimacy Act and contains some additional provisions. The New York commissioners feel that for all practical purposes the act is equivalent to the Illegitimacy Act. The Act for Extradition of Persons of Unsound Mind was not reported out by the committee to which it was referred.

NORTH CAROLINA. No Uniform Acts were adopted, and it is understood that none were introduced.

NORTH DAKOTA. The Bills of Lading Act and the Stock Transfer Act were introduced. Neither was reported out by the committee to which it was referred. The commissioners state that the reason neither of the acts was reported out and passed is that they

were unable to attend the legislative session in person. This explanation will, no doubt, apply to a number of other states.

OHIO. The Conditional Sales Act and the Amendments to the Sales Act and the Amendments to the Warehouse Receipts Act were introduced. Both of the amendments were adopted. It is understood the Conditional Sales Act did not get to a vote.

OKLAHOMA. No report has been received from the commissioners, but the Secretary of State advises that no Uniform Acts were passed. It is probable none were introduced.

OREGON. No report has been received from the commissioners, but the Secretary of State advises that no Uniform Acts were passed. It is probable none were introduced.

PENNSYLVANIA. But one Uniform Act, the Conditional Sales Act, was introduced. It was adopted. The commissioners had introduced and there was adopted an act amending the title to the Sales Act which was passed some years ago, the amendment having been made necessary by a decision of the Supreme Court of the state.

RHODE ISLAND. No report has been received. It is probable that no Uniform Acts were introduced.

SOUTH CAROLINA. No Uniform Acts were adopted, and it is understood none were introduced.

SOUTH DAKOTA. Only three Uniform Acts, to-wit: the Aeronautics Act, the Declaratory Judgments Act, and the Limited Partnership Act were introduced. All were adopted.

TENNESSEE. The following Uniform Acts were introduced: Fiduciaries Act, Foreign Wills Executed Act, Foreign Wills Probated Act, and Amendments to the Warehouse Receipts Act. The Foreign Wills Executed Act and the Foreign Wills Probated Act late in the session were reported adversely by the Senate Committee on Judiciary, for which reason they failed to pass. The other acts were reported favorably. The Fiduciaries Act failed of passage in the house by a few votes in the last days of the session. The Amendments to the Warehouse Receipts Act were not adopted, presumably because they did not get to a vote. A bill was introduced to amend the Uniform Partnership Act,

which was adopted some years ago, to correct some errors which occurred in engrossing the act. The bill was not reached on the calendar before adjournment. The Uniform Stock Transfer Act was adopted some years ago, but under a title so worded as to make it apply only to Tennessee corporations. The Supreme Court in December, 1924, held that the act for that reason was unconstitutional. The Stock Transfer Act was readopted at the 1925 session of the legislature under a proper title.

TEXAS. No Uniform Acts were introduced. The commissioners confined their efforts to an act which would recognize the Conference and give the commissioners of Texas to the Conference an official status and provide for a contribution to the work of the Conference and the payment of the expenses of the commissioners. The act finally failed of passage in the house by two votes.

UTAH. Three acts, to-wit: the Declaratory Judgments Act, the Fiduciaries Act, and the Fraudulent Conveyance Act, were introduced. All were adopted.

VERMONT. The commissioners arranged to have introduced the Declaratory Judgments Act, the Fraudulent Conveyance Act, the Limited Partnership Act, and the Partnership Act. It developed that there was further opposition to these acts in the judiciary committees of the Senate and House and that the leading members of those committees, as the commissioners report, "were out of sympathy with the notion of uniformity in legislation, and it was quite impossible to overcome their influence." It was, therefore, decided not to have any of the acts introduced.

WASHINGTON. No uniform acts were introduced. The legislature at the request of the Governor, on the ground that he desired to have an opportunity to investigate the state institutions and state conditions, adjourned after being in session a few days. It is expected that a special session will be held in November, at which time it is probable one or more Uniform Acts will be introduced.

WEST VIRGINIA. No new Uniform Acts were passed, and it is understood none were introduced. The Conditional Sales Act was adopted in 1921 and was amended or re-enacted in 1923. Just what the respects were in which the act passed or re-enacted

in 1923 differed from the Uniform Act, the committee is not advised. However, the legislature of 1925 amended and re-enacted the act of 1923 so as to make it conform to the Uniform Act in all respects, except for slight changes in the so-called criminal sections of the act. A code commission to restate and recodify the statute law of West Virginia is at work. The commissioners are awake to the opportunity offered by this commission and will endeavor to have the commission include in the revision some Uniform Acts.

WISCONSIN. The following acts were introduced: Aeronautics, Declaratory Judgments, Fiduciaries, Amendments to Sales Act, and Amendments to Warehouse Receipts Act. The Aeronautics Act failed of passage in the Senate largely because earlier in the session an act placing some restrictions on flying had been introduced by one of the senators and had been passed and signed by the Governor before the Aeronautics Act was considered. The Senate did not deem it advisable to displace at the same session the act which had been so passed and approved. The Declaratory Judgments Act passed but was vetoed by the Governor, it is reported, on the ground that it would lead to a flood of litigation and also on the further ground that it was prolix and diffuse. The sentiment for the Declaratory Judgments Act in the legislature was strong, and the commissioners feel confident that the next legislature will again pass it. The Fiduciaries Act, the Amendments to the Sales Act, and the Amendments to the Warehouse Receipts Act were adopted.

WYOMING. No Uniform Acts were adopted, and it is understood that none were introduced.

ALASKA. No Uniform Acts were adopted. A full report from Commissioner Clark shows that the legislative situation was such that it was not advisable to press the adoption of any Uniform Acts, and consequently none were introduced.

HAWAII. No Uniform Acts were adopted, and it is understood none were introduced.

PHILIPPINE ISLANDS. No report has been received.

PORTO RICO. The Declaratory Judgments Act was passed, but the Governor vetoed it, and at the last report no action had been taken on the veto. The Negotiable Instruments Act

passed the House and, when the last report was received, was pending in the Senate with favorable prospects.

It is to be regretted that the number of adoptions of Uniform Acts this year is much less than it was in 1923, when the same number of legislative sessions were held, and is also less in proportion than it was in 1924 when only a few sessions were held.

However, the number of adoptions this year compares well with the average of the former years of the existence of the Conference, and the Committee feels that progress is being steadily made. Probably the most important question before the Conference is to determine how that progress can be increased.

Respectfully submitted:

JOHN H. VOORHEES, *Chairman*

WALTER P. ARMSTRONG

GEORGE A. BOURGEOIS

HARRY L. CRAM

T. A. HAMMOND

FRANK PAGE

J. O. SETH

Ex-officio:

NATHAN WILLIAM MACCHESNEY,

President.

Dated August 25, 1925.

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

To The Members of the Executive Committee of the Conference:

At the mid-winter meeting of the Committee held at Chicago on February 26 and 27, 1925, it was voted that I be requested to prepare a formal written report on the means of increasing the effectiveness of the cooperation of the American Bar Association, such report to be sent to the members of the Committee and to be considered at its next meeting.

It will be remembered that the "cooperation" of the Association that was under consideration by the Committee was cooperation in securing the adoption by the states of Uniform Acts.

I gave this subject some consideration in 1922 and the views which I then formed are embodied in the report of the Legislative Committee to the Conference at its meeting at San Francisco in August of that year. That report will be found at page 167 of the 1922 Handbook of the Conference, and the portion of the report bearing on this subject will be found on pages 172 and 173. Reconsideration of the subject has not changed those views and on the contrary has served to confirm them.

The means which I suggest of increasing the effectiveness of the cooperation of the Association in the work of the Conference is the appointment of a committee in each State of two members of the Association on legislation, whose duty it shall be to endeavor to secure the adoption by the state legislature and the approval by the governor of all acts of state legislation recommended by the Association for adoption, which, of course, will include the Uniform Acts. For the consideration of the Committee I have stated my views and the recommendation in connection with them in the form of a petition by the Committee (or if preferred by the Conference) to the Executive Committee of the Association, which petition is hereto attached.

JOHN H. VOORHEES

Dated August 6th, 1925.

PETITION BY THE EXECUTIVE COMMITTEE OF THE
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS TO THE EXECU-
TIVE COMMITTEE OF THE AMERICAN
BAR ASSOCIATION

The Executive Committee of the National Conference of Commissioners on Uniform State Laws had under consideration at its mid-winter meeting held at Chicago in February, 1925, the question of a possible increase in the effectiveness of the cooperation of the Association in the work of the Conference with respect to securing the adoption by the States of Uniform Acts prepared and adopted by the Conference and approved by the Association. As a result of such consideration the Executive Committee of the Conference asks the Executive Committee of the Association to provide for the appointment in each State of a committee of two members of the Association on legislation, whose duty it shall be to endeavor to secure the passage by the legislature and the approval by the governor of all acts of state legislation which have been approved by the Association and recommended by it to the States for adoption, which acts, of course, include the Uniform Acts. In support of this request the following statement is submitted.

The object of the Conference as declared in its Constitution is "to promote uniformity in state laws on all subjects where uniformity is deemed desirable and practicable." Promotion of such uniformity includes not only the preparation of Uniform Acts but also securing their adoption in the States. By far the larger portion of the time of the Conference is necessarily devoted to the preparation of acts. For the adoption of the acts the Conference has so had to rely on its Legislative Committee and the work of the individual commissioners in their respective States and the cooperation of other organizations and of individuals who are interested in Uniform State Legislation. The result on the whole has been gratifying, but not nearly so satisfactory as could be desired. Of the thirty Uniform Acts which have been prepared by the Conference and approved by the Association and are recommended by the Conference for adoption there have been about 375

adoptions in the several states. Only one act, however, The Negotiable Instruments Act, has been adopted in every state. The Warehouse Receipts Act has been adopted in forty-eight states. Some of the acts have been adopted in only a few states. In only one state, Wisconsin, have more than twenty acts been adopted; in only fourteen states have more than ten acts been adopted; in seventeen states less than five acts have been adopted.

If the Conference had sufficient funds to enable it adequately to present to each state legislature at its session the merits of its work, it is not to be doubted that there would soon be a marked increase in the adoption of Uniform Acts. The Conference, however, has not funds which it can use for that purpose and because of the many demands upon the treasury of the Association the Conference does not desire to ask the Executive Committee of the Association to provide funds for that purpose.

It is the opinion of the Executive Committee of the Conference that the work of the Conference in securing the adoption by the states of Uniform Acts would be aided and strengthened if the American Bar Association would more openly and actively promote that work. The commissioners of the Conference in having introduced in their respective state legislatures a Uniform Act and in advocating before the committees of the legislature the adoption of the act, of course, state that the act has been approved by the American Bar Association and has been recommended by it to the states for adoption. Much more influential and effective in that respect would be the active cooperation with the commissioners of a committee of the Association. The recent increase in membership of the Association and the growing popularity of the Journal published by the Association have served materially to augment the prestige and influence of the Association, and the Association is doubtless in the best position it ever has been to aid the Conference in the second portion of its work, the adoption by the states of the Uniform Acts.

It should be remembered in this connection that one of the objects of the Association declared by its Constitution is to promote the uniformity of legislation. This, of course, includes as above pointed out the adoption by the states of the Uniform Acts.

The Executive Committee of the Conference is of the opinion that the best means to be adopted by the Association at the present time of increasing the effectiveness of its cooperation with the Conference in its work is to provide for the appointment in each state of a committee on legislation; that such committee should consist of two members of the Association; that neither the Vice-President of the Association for the state nor the member of the General Council of the Association from the state should be appointed on such committee; that the duties of the members of such committee should be to endeavor to secure the adoption by the state legislature and the approval by the governor of all acts of state legislation including the Uniform Acts which are approved by the Association and recommended by it for adoption; that the members of such committee should assist the commissioners to the Conference from their state in securing the adoption of the Uniform Acts and should appear before the legislature and its various committees as the direct representatives of the American Bar Association, separate and distinguished from the Commissioners but in cooperation with them, and in the name of and on behalf of the Association, advocate the enactment of the Uniform Laws and do what they properly can do to secure their adoption.

In making this request the Executive Committee of the Conference is not unmindful of the provision of By-Law X of the By-Laws of the Association by which it is made the duty of the Vice-President and the member of the General Council of the Association of each state to aid in securing the enactment of all laws recommended by the Association. This provision unfortunately is but little, if at all, observed and the efforts by the Conference to secure its observance have been without success. It is an unfortunate fact that a committee which is constituted *ex officio* (for with respect to this work the Vice-President and the member of the General Council of the Association are in effect an *ex officio* committee) is seldom as interested in its work and effective as one that is especially appointed. Not infrequently also the Vice-President or the members of the General Council of a state is also a commissioner of that state to the Conference. If there is not to be a special committee of the Association in each state on legis-

lation such commissioner would, therefore, in that particular work be representing two organizations. It is desirable to avoid this. However, if the Executive Committee of the Association acts favorably on the recommendation and request of the Executive Committee of the Conference herewith made it would not be necessary or even advisable to repeal the above mentioned provision of By-Law X of the By-Laws of the Association as it would be well to have the Vice-President and the member of the General Council of each state understand that it is their duty to aid in securing the adoption of the Uniform Acts and their assistance in that work if given would often be of value. The Executive Committee of the Conference is firmly of the opinion that it is important that in every state there be a committee of the American Bar Association of two (and not more than two) who have no connection with the Conference and whose sole duty it shall be to endeavor by all proper means to influence the legislature of their state to adopt acts of state legislation which are recommended or which have been recommended in the past by the Association including the Uniform Acts. It is deemed especially important in this connection that both members of such committee be residents of the State Capitol, so that they can conveniently and without particular loss of time to themselves appear as often as the occasion may require before legislative committees and interview as frequently as may be necessary members of the legislature in support of pending acts which have been approved by the Association. In states where it is not deemed advisable to have both members of the committee residents of the State Capitol at least one member of the committee should be such a resident at the Capitol and the other member should be located as conveniently accessible to it as possible. This should be borne in mind at all times in appointing the committee.

It is suggested that it is not necessary to amend the Constitution or By-Laws of the Association in order to provide for the creation of such a committee on legislation in each state. It is probable that the Executive Committee of the Association, possessed of the broad powers conferred upon it by the Constitution and By-Laws of the Association, has the power, at least if it acts when

the Association is not in session, to provide for the appointment of such a committee in each state.

The coming year 1926 will be what is sometimes termed an off year in legislation in that legislative sessions will be held in only eleven states. It is suggested, therefore, that the Executive Committee of the Association give the proposed plan a trial next year. If that is done the committees in the states in which legislative sessions are so to be held in 1926 should be appointed several weeks before the opening of the legislative sessions, and there would, of course, be no occasion for appointing such committees this year (1925) in any state in which a legislative session is not to be held next year.

The Executive Committee of the Conference, therefore, earnestly recommends and requests that the Executive Committee of the Association provide for the appointment of a committee of the Association on legislation of the character above described in each state or at least in each state in which a legislative session is to be held in 1926.

Respectfully submitted.

RESOLUTION OFFERED BY J. H. VOORHEES,
OF SOUTH DAKOTA

WHEREAS, It is believed by the National Conference of Commissioners on Uniform State Laws that the effectiveness of the cooperation of the American Bar Association in the work of the Conference would be increased if the Association would appoint in each State a Committee on legislation.

Resolved, That the National Conference of Commissioners on Uniform State Laws hereby petitions the Executive Committee of the American Bar Association to arrange for the appointment in each State of a Committee of the Association on legislation, whose duty it shall be to cooperate with the Commissioners from the State to the Conference in their work of endeavoring to secure the adoption by the State Legislature and the approval by the Governor of the Uniform Acts which have been prepared by the Conference and approved by the Association, and that in the judgment of the Conference such Committee should consist of only two members of the Association, that they should, as a rule, be residents of the State capital and that no Commissioner and that neither the Vice-President nor the member of the General Council of the Association from the State should be appointed on the Committee.

REPORT TO THE NATIONAL CONFERENCE OF
COMMISSIONERS ON UNIFORM STATE LAWS
BY THE COMMITTEE ON THE APPOINT-
MENT OF AND ATTENDANCE BY
COMMISSIONERS

*To the National Conference of Commissioners on Uniform State
Laws:*

Your undersigned Committee begs to report as follows:

There has been no change in Commissioners since the last report in Alabama, Alaska, Arizona, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Philippine Islands, Porto Rico, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, and Wisconsin.

CALIFORNIA: Mr. Allen Chickering, one of the commissioners from this state, has resigned, and Mr. Bradner W. Lee, another, and one of the first commissioners from California, has departed this life. We have suggested to the Commissioners from California that Mr. H. H. Brown, formerly a Commissioner from Nevada be appointed an additional Commissioner from California.

COLORADO: Mr. John H. Fry, who was appointed last year to succeed Judge Thomas J. O'Donnell, has died, and E. L. Brock of Denver has been appointed to succeed him.

IDAHO: Two new commissioners were appointed from Idaho, James G. Gwinn of St. Anthony and O. O. Haga of Boise. We are glad to state that Idaho was represented at the Convention of 1924 by James F. Ailshie, the first Commissioner who has appeared from that state for many years.

IOWA: The present Commissioners from Iowa have been re-appointed for terms of four years.

KANSAS: Charles W. Smith, one of the oldest in service and most efficient of our commissioners has died, but we have not yet received the name of his successor.

MINNESOTA: We regret to announce the death of Mr. C. A. Severance, one of the Commissioners from this state.

MISSOURI: Joseph Zumbalen of St. Louis has been appointed to succeed James H. Harkless, resigned.

NEVADA: We regret that the permanent removal of Commissioner H. H. Brown from Nevada to California has caused the acceptance of his resignation as a commissioner and Alfred Chartz of Carson City has been appointed his successor.

NORTH CAROLINA: James G. Murphy has resigned but no successor has yet been appointed.

NORTH DAKOTA: Mr. S. Johnson of Bismarck has been appointed to succeed Edward F. Flynn, removed from the State.

OKLAHOMA: W. A. Ledbetter of Oklahoma City has been appointed to succeed James H. Veasey, resigned.

OREGON: The vacancy in Oregon has been filled by the appointment of Albert B. Ridgway of Portland.

PENNSYLVANIA: William H. Schnader of Harrisburg has been appointed to succeed Walter George Smith, deceased.

RHODE ISLAND: W. W. Moss of Providence has been appointed to succeed W. A. Morgan, deceased.

SOUTH CAROLINA: H. B. Carlisle and D. A. G. Ouzts resigned as commissioners, but Mr. Ouzts was reappointed, and to succeed Mr. Carlisle and Mr. McDonald whose term had expired, A. F. Woods of Marion and R. S. Stewart of Lancaster were appointed.

VIRGINIA: The term of office of H. G. Peters having expired, John W. Carter, Jr., of Danville has been appointed his successor.

WEST VIRGINIA: To succeed the present commissioners from West Virginia, J. W. Vandervort of Parkersburg has been reappointed and Clarence E. Martin of Martinsburg and Thomas S. Riley of Wheeling have been appointed and we hope all will attend the coming Conference.

WISCONSIN: There is still a vacancy in the office of Commissioner from Wisconsin, and your Committee has made no recommendations, awaiting the return from the Philippines of former commissioner Gilmore, hoping that when he comes back he may be reappointed.

WYOMING: We regret to announce the resignation of Mr. N. E. Corthell one of the Commissioners from this state.

This report is made early at the request of the Secretary of the Conference. In accordance with the Constitution, I have notified the Governors of Alaska, Hawaii, New Hampshire, North Carolina, Oklahoma, Oregon and the Philippine Islands that no commissioners have attended from these states, territories or possessions for the past two years.

There are still vacancies in the office of commissioner for the following states: California, Kansas, Minnesota, North Carolina, Wisconsin and Wyoming. Next month, as usual, your Committee will address communications to the Governors asking them to urge the attendance of all Commissioners at the coming Conference and a similar letter to each Commissioner.

As other changes may be made in Commissioners, or vacancies filled, supplemental reports will be presented to the Conference.

Respectfully submitted,

W. O. HART, *Chairman*

JAMES R. CATON

P. H. GILLEN

PERCY V. LONG

P. W. MELDRIM

JAMES M. TUNNELL

J. W. VANDERVORT

Ex-officio: NATHAN W. MACCHESNEY, *President*

SUPPLEMENTAL REPORT
OF THE
COMMITTEE ON APPOINTMENT OF AND ATTEND-
ANCE BY COMMISSIONERS

TO THE
THIRTY-FIFTH ANNUAL MEETING OF THE NATIONAL CONFERENCE
OF COMMISSIONERS ON UNIFORM STATE LAWS, AT
DETROIT, MICHIGAN, AUGUST 28, 1925

Since our last report, which is in print, there have been many changes in the office of Commissioners, which we shall now presently state.

All of the vacancies referred to in our original report have been filled, except from California and North Carolina.

ARIZONA: Mr. H. B. Wilkinson has resigned as a Commissioner but no successor has as yet been appointed.

DELAWARE: Mr. D. C. Hastings has resigned as a Commissioner but no successor has as yet been appointed.

FLORIDA: Mr. Louis E. Massey has resigned as a Commissioner but no successor has as yet been appointed.

ILLINOIS: General Nathan William MacChesney, Professor Ernst Freund and Mr. James M. Graham have been re-appointed Commissioners, and Judge O. A. Harker, Urbana, a former Commissioner, and Mr. C. M. Clay Buntain, of Kankakee, have been appointed to succeed Mr. J. J. Thompson and Dean J. H. Wigmore, whose terms have expired. All the Commissioners of Illinois are present at this Conference.

KANSAS: The following additional Commissioners have been appointed from Kansas: Mr. Robert Stone, Topeka, Thomas F. Doran, Topeka and William Osmond, Great Bend. All of them are in attendance at this Conference.

MINNESOTA: Mr. Bruce W. Sanborn, of St. Paul, has been appointed a Commissioner to succeed Mr. C. A. Severance, deceased.

MISSISSIPPI: Mr. L. Barrett Jones, of Jackson, and Mr. A. W. Shands, of Cleveland, have been appointed Commissioners to succeed Mr. Percy Bell and Mr. W. H. Clifton, resigned, and both are present at this Conference.

NEW MEXICO: Judge O. L. Phillips, of Albuquerque, and Mr. Hiram M. Dow, of Roswell, have been appointed Commissioners to succeed Mr. C. M. Botts and Mr. J. W. Armstrong. Judge Phillips is present at this Conference.

MONTANA: Charles R. Leonard has resigned as a Commissioner but no successor has yet been appointed.

VERMONT: Mr. J. G. Sargent has resigned as a Commissioner.

WISCONSIN: The long existing vacancy in Wisconsin has been filled by the appointment of Mr. Max Schoetz, Jr., Dean of the Marquette University Law School of Milwaukee, and he is present at this Conference.

WYOMING: Mr. W. C. Kinkead having resigned as a Commissioner, Mr. J. C. O'Mahoney, of Cheyenne, and Mr. E. C. Raymond, of New Castle, have been appointed as Commissioners. Mr. O'Mahoney is present at this Conference.

Respectfully submitted,

W. O. HART, *Chairman*
JAMES R. CATON
P. H. GILLEN
PERCY V. LONG
P. W. MELDRIM
JAMES M. TUNNELL
J. W. VANDERVORT

Ex-officio: NATHAN W. MACCHESNEY, *President*.

THE REPORT OF THE COMMITTEE ON UNIFORMITY OF JUDICIAL DECISIONS

To the President and Members of the National Conference of Commissioners on Uniform State Laws.

The Committee on Uniformity of Judicial Decisions respectfully reports:

Pursuant to the report made last year the Committee was requested to undertake the compilation of tables showing how the Uniform Laws adopted in each State were numbered, as compared with the Sections of the original Acts. The preparation of this table has been undertaken in the hope that it might induce the Judges of the various courts, when citing the sections of the uniform acts as appearing in the statute books of their own states, to cite also the sections as numbered in the original acts.

Inasmuch as this work could not be distributed, the Chairman undertook its preparation, calling upon at least one Commissioner from each state to assist him. The Chairman sent to a Commissioner of each state copies of the uniform laws adopted in that state, and asked that he note the section numbers as appearing in the statute books of his state. Many of the Commissioners responded; quite a number did not, and therefore the Chairman was compelled to otherwise gather the information. Every possible effort has been made to secure accuracy, but in those states in which the members did not assist in the preparation, there may be errors. We herewith submit the tabulation.

Last year this Committee brought the citations of decisions on the following uniform acts, from the date of the last report of Chairman Charles E. Terry, to January 1, 1924: Uniform Acknowledgments of Written Instruments Act; Uniform Act Relating to Wills Executed without the State; Uniform Foreign Acknowledgments Act; Uniform Probate of Foreign Wills Act; Uniform Warehouse Receipts Act; Uniform Bills of Lading Act; Uniform Proof of Statutes Act; Uniform Vital Statistics Act; Uniform Sales Act; Uniform Conditional Sales Act.

The present report includes citations of decisions construing the foregoing acts from January 1, 1924, to March 1, 1925, and upon all the other acts which were not included in last year's report from March 1, 1921, to March 1, 1925, except the Uniform Negotiable Instruments Act, in which the citations are so voluminous that the Committee was not able to bring the citations on that statute up to date.

Assignments were made to the members of the Committee to gather the decisions on various Uniform Acts. Judge Allen, Judge Bronson, Mr. Rose and Mr. Shepard contributed largely to this report. The other members of the Committee did not find sufficient time to complete their assignments.

The Edward Thompson Company is now publishing a supplement to each volume of its Uniform Laws Annotated, the last Supplement containing the decisions up to July 1, 1924, in which, under the title "Case Notes" it groups the decisions under each section of the Uniform Law and where the cases do not cite the sections but apply the law, the note reads: "No reference to uniform act." In view of this comprehensive work, the Committee feels that it is a duplication of effort for this Committee to keep up these citations, without the same facilities for properly doing the work. The Committee, therefore, recommends that this portion of its duties should not be continued, but that the Committee devote its energies wherever the opportunity appears, in the effort to bring about the uniformity of judicial decisions and citations of the uniform acts.

WM. M. HARGEST, *Chairman*
STEPHEN H. ALLEN
HARRISON A. BRONSON
JAMES M. GRAHAM
GEORGE B. ROSE
MANUEL RODRIGUEZ SERRA
CHARLES E. SHEPARD

UNIFORM SALES ACT

Sufficiency of Title:

Phoenix vs. Cotton Oil Co. 150 Tenn. 292.

Guppy vs. Moltrop, 281 Pa. 344.

SECTION 1.

Citing:

Jones vs. Commercial Invest. Trust (Utah) 228 P. 896.

Salt River Valley Water Users' Ass'n vs. Peoria Ginning Co.
(Ariz.) 231 P. 415.

SECTION 4.

Citing:

Guppy vs. Moltrop, 281 Pa. 343, holding section unconstitutional in so far as it relates to "Choses in Action," as not within title.

Fredonia Seed Co. vs. Nathan & Bro. 83 Pa. Super. Ct. 374.

Franklin Sugar R. Co. vs. John, 279 Pa. 104.

Paturzo vs. Ferguson, 280 Pa. 379.

Hickman, Williams & Co. vs. Wayne S. Co. 280 Pa. 540.

Cleeg vs. Lees, 82 Pa. Super. Ct. 584.

Goldsmith vs. Stiglitz (Mich.) 200 N. W. 252.

Brewster-Loud Lumber Co. vs. Gen. Builders' Supply Co.
(Mich.) 200 N. W. 283.

Gehl Bros. Mfg. Co. vs. Hammond-Olsen Lumber Co. (Wis.)
199 N. W. 147.

Pope vs. Brooks (Mass.) 144 N. E. 214.

Phoenix vs. Cotton Oil Co. 150 Tenn. 292.

Applying but not citing:

Tomlinson & Son Co. Inc. vs. Lennon (R. I.) 125 A. 266.

Hanson vs. Knutson Hardware Co. (Wis.), 196 N. W. 831.

Neilson vs. Kittle Canning Co. vs. Lowe & Co. (Tenn.) 260
S. W. 142.

Stehli Silks Corp. vs. Pettibone-Peabody Co. (Wis.) 197 N. W.
183.

SECTION 12.

Citing:

Stringfellow vs. Botterill Auto Co. (Utah) 221 P. 861.

Applying but not citing:

Frederickson vs. Hackney (Minn.) 198 N. W. 806.

SECTION 13.

Citing:

Penney vs. Geraghty, 205 N. Y. S. 645.

Star Fuse Co. vs. Prussian (Mass.) 143 N. E. 145.

SECTION 14.

Citing:

Morris Run Coal Co. vs. Carthage Sulphite P. & P. Co. Inc.
206, N. Y. S. 676.

Sig. C. Mayer & Co. vs. Smith (Ore.) 230 P. 355.

Star Fuse Co. vs. Prussian (Mass.) 143 N. E. 145.

SECTION 15.

Citing:

Peerless Electric Co. vs. Call 82 Pa. Super. Ct. 550.

Politziner Bros. vs. Vanetch, (Conn.) 125 A. 630.

Morris Run Coal Co. vs. Carthage Sulphite P. & P. Co. 206
N. Y. S. 676.

J. Aron & Co. Inc. vs. Sills. 206 N.Y. S. 695.

Aetna Chemical Co. vs. Spaulding & Kimball Co. (Vt.) 126
A. 582.

Fruit Dispatch Co. vs. C. C. Taft Co. (Ia.) 197 N. W. 302.

Wilbur-Dolson Silk Co. vs. Wm. Wallach Co. 198 N. Y. S. 243.

Greenberg Realty Co. vs. Cream City Roofing & Paint Mfg.
Co. (Wis.) 197 N. W. 815.

Lathrop-Paulson Co. vs. Perksen, 229 Ill. App. 400.

Santa Rosa-Vallejo Tanning Co. vs. Charles Kronauer & Co.
228 Ill. App. 236.

Bird & Son vs. Guarantee Const. Co. 295 F. 451.

Dwyer vs. Redmond (Conn.) 124 A. 7.

Sachter vs. Gulf Refining Co. 203 N. Y. S. 769.

SECTION 16.

Applying but not citing:

Vital et al vs. Jandorf et al, 206 N. Y. S. 400.

SECTION 18.

Citing:

- Dilliard, Coffin & Co. vs. Beley Cotton Co. (Tenn.) 263 S. W. 87.
Jones vs. Commercial Invest. Trust, (Utah) 228 P. 896.
Scofield vs. Barowsky, (Mass.) 143 N. E. 921.
Rehr vs. Trumbull Lumber Co. (Ohio) 143 N. E. 558.
Young vs. Harris-Cortner Co. (Tenn.) 268 S. W. 125.

SECTION 19.

Citing:

- Frank Pure Food Co. vs. Dodson, 281 Pa. 125.
Jeffries vs. Pankow (Ore.) 229 Pac. 903.
Jones vs. Commercial Investment Trust (Utah) 228 P. 896.
Acme Wood Carpet Flooring Co. vs. Braddock, 203 N. Y. S. 554.
F. W. Stock & Sons vs. Capitol Cooperage Co. (Mich.) 197 N. W. 529.
F. D. Barton & Co. vs. Trumball, (Mich.) 198 N. W. 186.
Birdsong vs. W. H. & F. Jordan, Jr., Inc. 297 F. 742.
Rudin vs. King-Richardson Co. (Ill.) 143 N. E. 199.
Scofield vs. Barowsky (Mass.) 143 N. E. 921.
Rehr vs. Trumbull Lumber Co. (Ohio) 143 N. E. 558.
William Whitman Co. vs. Witcombe 204 N. Y. S. 417.
Jacob Glass, Inc. vs. Banca Marmorosch, 204 N. Y. S. 636.

Applying but not citing:

- Eagle Lumber Co. vs. Burton Lumber Co. (Utah) 220 P. 1069.

SECTION 20.

Citing:

- Jeffries vs. Pankow (Ore.) 229 Pac. 903.

SECTION 22.

Citing:

- Heyman vs. Hamilton Nat. Bank (Tenn.) 266 So. 1043.

SECTION 23.

Citing:

- Dilliard & Coffin Co. vs. Beley Cotton Co. (Tenn.) 263 S. W. 87.

Acme Wood Carpet Flooring Co. vs. Braddock, 204 N. Y. S. 554.

Young vs. Harris-Cortner Co. (Tenn.) 268 S. W. 125.

SECTION 24.

Citing:

Island Trading Co. vs. Berg Bros. 204 N. Y. S. 523.

Casey vs. Kastel, 237 N. Y. 305.

SECTION 25.

Citing:

Gehl Bros. Mfg. Co. vs. Hammond-Olsen Lumber Co. (Wis.) 199 N. W. 147.

New Eng. Auto Invest. Co. vs. St. Germaine (R. I.) 121 A. 398.

SECTION 31.

Citing:

Dilliard & Coffin Co. vs. Beley Cotton Co. (Tenn.) 263 S. W. 87.

SECTION 41.

Citing:

Smith vs. Oscar H. Will & Co. (N. D.) 199 N. W. 861.

Western Alfalfa Milling Co. vs. Worthington (Wyo.) 223 P. 218.

Applying but not citing:

Blumenthal & Co. Inc. vs. G. M. Gallert & Co. 205 N. Y. S. 197.

SECTION 42.

Citing:

Devesco vs. Chandler, 206 N. Y. S. 604.

Western Alfalfa Milling Co. vs. Worthington, (Wyo.) 223 P. 218.

Applying but not citing:

Neilson & Kittle Canning Co. vs. Lowe & Co. (Tenn.) 260 S. W. 142.

Miles vs. Vermont Fruit Co. (Vt.) 124 A. 559.

SECTION 43.

Citing:

Newton Tea & Spice Co. vs. Narragansett Wholesale Grocery Co. (R. I.) 123 A. 144.

B. & N. Ry. & L. Co. vs. DeMange, 229 Ill. App. 108.
Robinson vs. All-Lite Sales Co. 202 N. Y. S. 260.
Star Fuse Co. vs. Prussian (Mass.) 143 N. E. 145.
Glines vs. Berry Box & Package Co. (Mass.) 143 N. E. 344.

Applying but not citing:

Cons. Flour Mills Co. vs. Picard Grain & Produce Co. 205 N. Y. S. 574.
Burlington Grocery Co. vs. Heaphy's Est. (Vt.) 126 A. 525.
Sterling Wheelbarrow Co. vs. Great Lakes Foundry Co. (Mich.) 196 N. W. 381.
Allen v. Baker, (Ore.) 220 P. 574.
Pope vs. Brooks (Mass.) 144 N. E. 214.

SECTION 44.

Citing:

Smith vs. Oscar H. Will & Co. (N. D.) 199 N. W. 861.
Newton Tea & Spice Co. vs. Narragansett Wholesale Grocery Co. (R. I.) 123 A. 144.
Allen vs. Baker (Ore.) 220 P. 574.
Finkelstein vs. Morganstern (Md.) 124 A. 872.
Levy vs. New River Collieries Co. 203 N. Y. S. 589.
Bank of U. S. vs. James McCreery & Co. 204 N. Y. S. 518.

Applying but not citing:

Carver-Beaver Yarn Co. vs. Wolfson (Mass.) 143 N. E. 919.

SECTION 45.

Citing:

Heckman, Williams & Co. vs. Wayne Steel Co. 280 Pa. 540.
American Tube & Stamping Co. vs. Erie I. & S. Co. 281 Pa. 10.
Monroe vs. Diamond, 279 Pa. 310.
Herx & Eddy, Inc. vs. Carlson, 206 N. Y. S. 179.
Sig. C. Mayer & Co., Inc. vs. Smith (Ore.) 230 P. 355.
Bank of U. S. vs. James McCreery & Co. 204 N. Y. S. 518.

Applying but not citing:

Horewitz vs. Franklin Foundry Co. 279 Pa. 177.
Sterling Cork & Seal Co. vs. Kling Brew. Co. (Mich.) 200 N. W. 142.

Consolidation Cool Co. vs. Astrid S. Rosing, Inc. 228 Ill. App.
573.

Finkelstein vs. Morganstern (Md.) 124 A. 872.

SECTION 46.

Citing:

Lopez vs. Henry Isaacs, Inc. 206 N. Y. S. 405.

Devesco vs. Chandler, 206 N. Y. S. 604.

Applying but not citing:

Bullard vs. Morgan H. Grace Co., Inc. 206 N. Y. S. 335.

Marshall Field & Co. vs. Snyder (S. D.) 196 N. W. 969.

SECTION 47.

Citing:

Smith vs. Oscar H. Will & Co. (N. D.) 199 N. W. 861.

Henry Glass & Co. vs. Misroch, 206 N. Y. S. 373.

Devesco vs. Chandler, 206 N. Y. S. 604.

Goodlatte vs. Acme Sales Corp. 229 Ill. App. 610.

Orr Felt & Blanket Co. vs. Sherwin Wool Co. (Miss.) 143 N. E.
541.

Applying but not citing:

Murphy vs. Gifford (Mich.) 200 N. W. 363.

Vital vs. Jandorf, et al 206 N. Y. S. 400.

Miller-Cahoon Co. vs. Wade (Idaho) 221 P. 1102.

Jewett & Sherman Co. vs. Rosenberg Bros. & Co. (Mo.) 195
N. W. 720.

SECTION 48.

Citing:

Aetna Chemical Co. vs. Spaulding-Kimball Co. (Vt.) 126 A. 582.

Sig. C. Mayer & Co., Inc. vs. Smith (Ore.) 230 P. 355.

Cohen Bros. Mfg. Co. vs. Edmund Wright Ginsberg Co. 201
N. Y. S. 851.

Goodlatte vs. Acme Sales Corp. 229 Ill. App. 610.

SECTION 49.

Citing:

Schnitzer vs. Lang (N. Y.) 145 N. E. 65.

United States vs. Dewart Milk Products Co. 300 F. 448.

Goodlatte vs. Acme Sales Corp. 229 Ill. App. 610.
Champlin vs. United States, 297 F. 503.
Nashua River Paper Co. vs. Lindsay (Mass.) 144 N. E. 224.
Lincoln vs. Croll (Mass.) 142 N. E. 820.
Afro-American Importing Co. vs. Werbelovsky, 204 N. Y. S.
197.

SECTION 51.

Citing:

Frank Pure Food Co. vs. Dodson, 281 Pa. 125.

SECTION 53.

Citing:

Acme Wood Carpet Co. vs. Braddock, 203 N. Y. S. 554.
Boise Overland Co. vs. Fearn (Idaho) 223 P. 534.
Gross vs. Reiners (Conn.) 124 A. 811.
D'Aprile vs. Turner-Looker Co. 204 N. Y. S. 566.

SECTION 54.

Citing:

D'Aprile vs. Turner-Looker Co. 204 N. Y. S. 566.

SECTION 56.

Citing:

D'Aprile vs. Turner-Looker Co. 204 N. Y. S. 566.

SECTION 60.

Boise Overland Co. vs. Fearn (Idaho) 223 P. 534.
Farrish Co. vs. Harris Co. 204 N. Y. S. 638.
Applying but not citing:
Goldsmith vs. Stiglitz (Mich.) 200 N. W. 252.
Edgar & Son vs. Grocers' Wholesale Co. 298 Fed. 878.
Call vs. Linn (Ore.) 228 P. 127.

SECTION 61.

Citing:

State Bank vs. Sukut, (N. D.) 196 N. W. 100.

SECTION 62.

Citing:

Island Trading Co. vs. Berg Bros. 204 N. Y. S. 523.

SECTION 63.

Citing:

- McComb vs. Neptune Boiler & Machine Works, Inc. 205 N. Y. S. 252.
Frank Pure Food Co. vs. Dodson, 281 Pa. 125.
Rice-MacRae Motor Truck Co. vs. Wurst (N. J.) 125 A. 112.
Santa Rosa-Vallejo Tanning Co. vs. C. Kronauer & Co. 238 Ill. App. 236.
Star Fuse Co. vs. Prussian (Mass.) 143 N. E. 145.
William Whitman Co. vs. Witcombe, 204 N. Y. S. 417.
D'Aprile vs. Turner-Looker Co. 204 N. Y. S. 566.
Farrish Co. vs. Harris Co. 204 N. Y. S. 638.

SECTION 64.

Citing:

- J. K. Rishel Co. vs. Stuyvesant Co. 204 N. Y. S. 659.
Scofield vs. Barowsky (Mass.) 143 N. E. 921.
Frank Pure Food Co. vs. Dodson, 281 Pa. 125.
Rees vs. Bowers Co. 280 Pa. 474.
Taylor vs. Goldsmith (Mich.) 200 N. W. 254.
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State Bank vs. Almira Farmers' Warehouse Co. (Wash.) 212
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Standard Bank of Canada vs. Lowman, (Wash.) 1 F. 2ed. 935.

Laube vs. Seattle N. Bank (Wash.) 228 P. 594.

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- Standard Bank of Canada vs. Lowman 1 F. 2 ed. 935.

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Young vs. Harris-Cortner Co. (Tenn.) 268 S.W. 125.

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SECTION 57.

Citing:

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SECTION 58.

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American Ry. Express Co. vs. Wright (Miss.) 91 S. 342.

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Heymann vs. Hamilton Nat. Bank (Tenn.) 266 S. W. 1043.

COLD STORAGE ACT.

No cases found in the states in which the Uniform Act has been adopted.

WORKMEN'S COMPENSATION ACT.

SECTION 8.

Citing:

Morita vs. Hawaiian Fertilizer Co. 27 Hawaii, 431.

SECTION 12.

Citing:

Johnston vs. A. C. White Lumber Co. (Idaho) 217 P. 979.

SECTION 35.

Citing:

Taylor vs. Blackwell Lumber Co. (Idaho) 218 P. 356.

SECTION 90.

Citing:

Taylor vs. Blackwell Lumber Co. (Idaho) 218 Pac. 356.

Fisk vs. Bonner Tie Co. (Idaho) 232 P. 569.

UNIFORM FOREIGN DEPOSITIONS ACT.

No cases in the states which have adopted the Uniform Act.

UNIFORM FIDUCIARIES ACT.

No cases in the states which have adopted the Uniform Act.

UNIFORM DECLARATORY JUDGMENTS ACT.

Constitutionality:

Miller vs. Miller (Tenn.) 261 S. W. 965.

UNIFORM AERONAUTICS ACT.

No cases found.

UNIFORM OCCUPATIONAL DISEASES ACT.

No cases found.

UNIFORM PARTNERSHIP ACT.

SECTION 4.

Citing:

In re Marcuse & Co. 281 F. 928.

Gerding vs. Baier, (Md.) 122 Atl. 675.

SECTION 6.

Citing:

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Columbian Laundry vs. Heneken, 196 N. Y. S. 523.

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In re Marcuse & Co. 281 F. 928.

Giles vs. Vette, 263 U. S. 537.

Gerding vs. Baier, (Md.) 122 A. 675.

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Rhodes vs. Terheyden, (Pa.) 116 A. 364.

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In re Hoyne, 277 F. 668.

In re Marcuse & Co. 281 F. 928.

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Taylor vs. Connors (Wis.) 192 N. W. 371.

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Kilduff vs. Boston El. Ry. Co. (Mass.) 142 N. E. 98.

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SECTION 26.

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Cunningham vs. Cunningham, (Ill.) 135 N. E. 21.

SECTION 27.

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SECTION 31.

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Gerding vs. Baier, (Md.) 122 A. 675.

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Underdown vs. Underdown (Pa.) 124 A. 159.

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Citing:

Crehan vs. Megargee (N. Y.) 136 N. E. 296.

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Citing:

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U. S. Comp. Stat. 8604 aaaa—The Isla de Panay, 292 F. 723.

SECTION 3.

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SECTION 10.

Citing:

Am. Hide & Leather Co. vs. Southern Ry. Co. (Ill.) 142 N. E.
200.

Davis vs. Fruita Mercantile Co. (Colo.) 220 P. 983.

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Citizens Bank vs. Willing (Wash.) 186 P. 1072.

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Citing:

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Citing:

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SECTION 29.

Citing:

The Isla de Panay 292 F. 723.

Davis vs. Fruita Mercantile Co. (Colo.) 220 P. 983.

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Sargent vs. Sargent (N. J.) 114 A. 439.
Byrne vs. Byrne (N. J.) 114 A. 754.
Bravo vs. Bravo (N. J.) 114 A. 790.
Stewart vs. Stewart (N. J.) 114 A. 851.
Atha vs. Atha (N. J.) 121 A. 301.

SECTION 9.

Citing:

Doran vs. Doran (Del.) 117 A. 24.
Rinaldi vs. Rinaldi (N. J.) 118 A. 684.

SECTION 14.

Applying but not citing:

- Stieglitz vs. Stieglitz (N. J.) 112 A. 310.
- Meek vs. Meek (N. J.) 112 A. 409.
- Foster vs. Foster (N. J.) 114 A. 333.
- Stewart vs. Stewart (N. J.) 114 A. 851.
- Cartan vs. Cartan (N. J.) 115 A. 353.
- Bissell vs. Bissell (N. J.) 117 A. 252.
- McLain vs. McLain (N. J.) 116 A. 701.
- Strickland vs. Strickland (N. J.) 117 A. 391.
- Orcutt vs. Orcutt (N. J.) 119 A. 377.
- Knibbs vs. Knibbs (N. J.) 121 A. 715.
- Rankin vs. Rankin (N. J.) 121 A. 778.
- Alt vs. Alt (N. J.) 122 A. 607.
- Buckley vs. Buckley (N. J.) 124 A. 605.

SECTION 16.

Citing:

- Markowitz vs. Markowitz (N. J.) 118 A. 632.

UNIFORM DESERTION AND NON-SUPPORT ACT.

Citing:

- State vs. Harris (W. Va.) 106 S. E. 254.
- Terrell vs. State (Tex.) 228 S. W. 240.
- Reid vs. State (Tex.) 229 S. W. 324.
- O'Brien vs. State (Tex.) 234 S. W. 668.
- State vs. Constable (W. Va.) 112 S. E. 410.
- Moorman vs. State (Miss.) 93 So. 368.
- Kozlowski vs. Board of Trustees (Del.) 118 A. 595.
- Taylor vs. State (Tex.) 247 S. W. 513.
- State vs. Garriss (N. J.) 121 A. 292.
- State vs. Goudy (W. Va.) 119 S. E. 685.
- Kachel vs. State (Tex.) 256 S. W. 263.
- Brown vs. State, 256 S. W. 438.

Applying but not citing;

- Vickers vs. Vickers (W. Va.) 109 S. E. 234.
- Williams vs. State (Tex.) 232 S. W. 507.
- Rausch vs. State (Tex.) 246 S. W. 1037.
- Parker vs. State (Tex.) 254 S. W. 991.

TABLES SHOWING THE SECTION NUMBERS OF THE UNIFORM ACTS
ADOPTED IN THE SEVERAL STATES COMPARED WITH THE
SECTION NUMBERS OF THE ORIGINAL ACTS AS REC-
OMMENDED BY THE NATIONAL CONFER-
ENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS.

Compiled by the Committee on Uniformity of Judicial Decisions and reported to
the National Conference of Commissioners on Uniform State
Laws, August 25, 1925.

WM. M. HARGEST, Chairman.

UNIFORM ACKNOWLEDGMENTS ACT (Domestic)

Uniform Law Sec.	Iowa	La.	Mass.	Mich.	N. D.	Tenn.
	Code 1924	Act 226 of 1920	Gen'l Laws 1921 Ch. 183	Comp. Laws 1915	Laws 1913 Secs. 5563-5574	Laws 1919 Ch. 48
1.....	10103 (c)	1	42	11755		1
2.....	10099	2	31	11756		2
3.....	10088 (c)	3	41	11757	Act similar	3
4.....	10089 (c)	Omitted	41	11758 (c)	in principle.	4
5.....	10090 (c)	"	42	11759		5
6.....	10091 (c)	"	41	11760		6
		4 (n)				

(c) changed.

(n) new.

UNIFORM ACKNOWLEDGMENTS ACT (Foreign)

Uniform Act Sec.	La.	Md.	Nev.	N. H.	Tenn.	Wis.	Alaska
	Act 154 of 1916	Code Art. 21 Act 1916 Ch. 174	Laws 1917 Ch. 52 Rev. Laws 1919 Supp. P. 267	Laws 1917 Ch. 53	Laws 1921 Ch. 82	Laws 1915 Ch. 275 Stats.	Laws 1915 Ch. 66
1.....	1	5-(1)	1	1	1		1
2.....	2	5-(2)	2	2	2	Sec.	2
3.....	3	5-(3)	3	3	3	2220	3
4.....	4	Omitted	Omitted	4	4		4

UNIFORM AERONAUTICS ACT

Uniform Law Sec.	Del.	Hawaii	Mich.	Nev.	N. D.	Tenn.	Utah	Vt.
	Laws 1923 Ch. 199	Laws 1923 Act 109	Public Acts 1923 Page 362	Laws 1922 Ch. 66	Laws 1923 Ch. 1	Laws 1923 Ch. 30	Laws 1924 Ch. 24	Laws 1923 No. 1 5
1.....	1	1	1	1	1	1	1	1
2.....	2	2	2	2	2	2	2	2
3.....	3	3	3	3	3	3	3	3
4.....	4	4	4	4	4	4	4	4
5.....	5	5	5	5	5	5	5	5
6.....	6	6	6	6	6	6	6	6
7.....	7	7	7	7	7	7	7	7
8.....	8	8	8	8	8	8	8	8
9.....	9	9	9	9	9	9	9	9
10.....	10	10	10	10	10	10	10	10
11.....	11	11	Omitted	11	11	11	11	11
12.....	12	12	"	12	Omitted	12	12	12
13.....	13	13	"	13	.....	13	13	13
14.....	14	14	Omitted	14	.....	14	Omitted	14

UNIFORM BILLS OF LADING ACT

	Ariz.	Cal.	Conn.	Idaho	Ill.	Iowa	La.	Me.
Uniform Law Section	Session Laws 1921 Ch. 48	Civil Code	Gen'l Stat. 1918 Ch. 229	Laws 1915 Ch. 16. Comp. Stat. 1919,secs. 6065-6118	Rev. Stat. 1923 Ch. 27	Code 1924	Act 94 of 1912	Laws 1917 Ch. 132
1....	1	2126	4613	1	2	8245 (1)	1	1
2....	2	2126-a	4614	2	3	8246 (2)	2	2
3....	3	2126-b	4615	3	4	8247 (3)	3	3
4....	4	2126-c	4616	4	5	8248 (4)	4	4
5....	5	2126-d	4617	5	6	8249 (5)	5	5
6....	6	2126-e	4618	6	7	8250 (6)	6	6
7....	7	2126-f	4619	7	8	8251 (7)	7	7
8....	8	2126-g	4620	8	9	8252 (8)	8	8
9....	9	2126-h	4621	9	10	8253 (9)	9	9
10....	10	2126-i	4622	10	11	8254 (10)	10	10
11....	11	2127	4623	11	12	8255 (11)	11	11
12....	12	2127-a	4624	12	13	8256 (12)	12	12
13....	13	2127-b	4625	13	14	8257 (13)	13	13
14....	14	2127-c	4626	14	15	8258 (14)	14	14
15....	15	2127-d	4627	15	16	8259 (15)	15	15
16....	16	2128	4628	16	17	8260 (16)	16	16
17....	17	2128-a	4629	17	18	8261 (17)	17	17
18....	18	2128-b	4630	18	19	8262 (18)	18	18
19....	19	2128-c	4631	19	20	8263 (19)	19	19
20....	20	2128-d	4632	20	21	8264 (20)	20	20
21....	21	2128-e	4633	21	22	8265 (21)	21	21
22....	22	2128-f	4634	22	23	8266 (22)	22	22
23....	23	2128-g	4635	23	24	8267 (23)	23	23
24....	24	2128-h	4636	24	25	8268 (24)	24	24
25....	25	2128-i	4637	25	26	8269 (25)	25	25
26....	26	2128-j	4638	26	27	8270 (26)	26	26
27....	27	2128-k	4639	27	28	8271 (27)	27	27
28....	28	2129	4640	28	29	8272 (28)	28	28
29....	29	2129-a	4641	29	30	8273 (29)	29	29
30....	30	2129-b	4642	30	31	8274 (30)	30	30
31....	31	2129-c	4643	31	32	8275 (31)	31	31
32....	32	2129-d	4644	32	33	8276 (32)	32	32
33....	33	2129-e	4645	33	34	8277 (33)	33	33
34....	34	2129-f	4646	34	35	8278 (34)	34	34
35....	35	2129-g	4647	35	36	8279 (35)	35	35
36....	36	2130	4648	36	37	8280 (36)	36	36
37....	37	2130-a	4649	37	38	8281 (37)	37	37
38....	38	2130-b	4650	38	39	8282 (38)	38	38
39....	39	2130-c	4651	39	40	8283 (39)	39	39
40....	40	2130-d	4652	40	41	8284 (40)	40	40
41....	41	2130-e	4653	41	42	8285 (41)	41	41
42....	42	2130-f	4654	42	43	8286 (42)	42	42
43....	43	2130-g	4655	43	44	8287 (43)	43	43
44....	44	2131	4656	44	45	8288 (44)	44	44
45....	45	2131-a	4657	45	46	8289 (45)	45	45
46....	46	2131-b	4658	46	47	8290 (46)	46	46
47....	47	2131-c	4659	47	48	8291 (47)	47	47
48....	48	2131-d	4660	48	49	8292 (48)	48	48
49....	49	2131-e	4661	49	50	8293 (49)	49	49
50....	50	2131-f	4662	50	51	8294 (50)	50	50
51....	51	2132	4663	51	52	8295 (51)	51	51
52....	52	2132-a	4664	52	53	8296 (52)	52	52
53....	53	2132-b	4665	53	54	8297 (53)	53	53
54....	54	2132-c	4666	54	55	8298 (54)	54	54
55....	Omitted	Omitted	Omitted	55	56	Omitted	55	55
56....	55	"	"	Omitted	Omitted	"	56	Omitted
57....	56	"	4667	56	57	8299 (57)	57	56

(c) Changed.

(n) New section.

UNIFORM BILLS OF LADING ACT—Continued.

	Md.	Mass.	Mich.	Minn.	Mo.	Nev.	N. H.	N. J.	N. Y.
Uni- form Law Sec- tion	Code of 1911 Art. XIV. Act 1910 Ch. 336	Gen'l Laws 1921 Ch. 108	Comp. Laws 1915	Gen'l Stat. Supp. 1917	Revised Stat. 1919 Ch. 126	Laws 1923 Ch.124	Laws 1917 Ch. 81	Laws 1913 Ch.156 p. 244	Personal Prop't'y Law
1....	1	1	8174	4434-1	13523	1	1	1	187
2....	2	2	8175	4434-2	13524	2	2	2	188
3....	3	3	8176	4434-3	13525	3	3	3	189
4....	4	4	8177	4434-4	13526	4	4	4	190
5....	5	5	8178	4434-5	13527	5	5	5	191
6....	6	6	8179	4434-6	13528	6	6	6	192
7....	7	7	8180	4434-7	13529	7	7	7	193
8....	8	8	8181	4434-8	13530	8	8	8	194
9....	9	9	8182	4434-9	13531	9	9	9	195
10....	10	10	8183	4434-10	13532	10	10	10	196
11....	11	11	8184	4434-11	13533	11	11	11	197
12....	12	12	8185	4434-12	13534	12	12	12	198
13....	13	13	8186	4434-13	13535	13	13	13	199
14....	14	14	8187	4434-14	13536	14	14	14	200
15....	15	15	8188	4434-15	13537	15	15	15	201
16....	16	16	8189	4434-16	13538	16	16	16	202
17....	17	17	8190	4434-17	13539	17	17	17	203
18....	18	18	8191	4434-18	13540	18	18	18	204
19....	19	19	8192	4434-19	13541	19	19	19	205
20....	20	Omitted	8193	4434-20	13542	20	20	20	206
21....	21	20	8194	4434-21	13543	21	21	21	207
22....	22	21	8195	4434-22	13544	22	22	22	208
23....	23	22	8196	4434-23	13545	23	23	23	209
24....	24	Omitted	8197	4434-24	13546	24	24	24	210
25....	25	23	8198	4434-25	13547	25	25	25	211
26....	26	24	8199	4434-26	13548	26	26	26	212
27....	27	25	8200	4434-27	13549	27	27	27	213
28....	28	26	8201	4434-28	13550	28	28	28	214
29....	29	27	8202	4434-29	13551	29	29	29	215
30....	30	28	8203	4434-30	13552	30	30	30	216
31....	31	29	8204	4434-31	13553	31	31	31	217
32....	32	30	8205	4434-32	13554	32	32	32	218
33....	33	31	8206	4434-33	13555	33	33	33	219
34....	34	32	8207	4434-34	13556	34	34	34	220
35....	35	33	8208	4434-35	13557	35	35	35	221
36....	36	34	8209	4434-36	13558	36	36	36	222
37....	37	35	8210	4434-37	13559	37	37	37	223
38....	38	36	8211	4434-38	13560	38	38	38	224
39....	39	37	8212	4434-39	13561	39	39	39	225
40....	40	38	8213	4434-40	13562	40	40	40	226
41....	41	39	8214	4434-41	13563	41	41	41	227
42....	42	40	8215	4434-42	13564	42	42	42	228
43....	43	41	8216	4434-43	13565	43	43	43	229
44....	44	42	8217	4434-44	13566	44	44	44	230
45....	45	43	8218	4434-45	13567	45	45	45	231
46....	46	44(c)	8219	4434-46	13568	46	46	46	232
47....	47	45(c)	8220	4434-47	13569	47	47	47	233
48....	48	46(c)	8221	4434-48	13570	48	48	48	234
49....	49	47(c)	8222	4434-49	13571	49	49	49	235
50....	50	48(c)	8223	4434-50	13572	50	50	50	236
51....	51	49	8224	4434-51	13573	51	51	51	237
52....	52	51	8225	4434-52	13574	52	52	52	238
53....	53	50	8226	4434-53	13575	53	53	53	239
54....	54	Omitted	8227(A)	4434-54	13576	54	54	54	240
55....	Omitted	"	8228	4434-55	Omitted	55	55	55	241
56....	"	"	Omitted	4434-56	"	56	56	56	Omitted
57....	55	51	8229	4434-57	"	57	57	57	"

	N. C.	Ohio	Pa.	R. I.	Vt.	Wash.	Wis.	Alas.
Uni- form Law Sec- tion	Laws 1919 Ch. 65	General Code	Pamphlet Laws 1911 Page 838	Gen'l Laws 1923 Ch. 317-321	Gen'l Laws 1915 Ch. 141	Reming- ton's Code 1922	Stats. 1923	Laws 1913 Ch. 59 p. 139
1....	1	8993-1	1	4564	3062	3647	120.01	1
2....	Omitted	8993-1	2	4565	3063	3648	120.02	2
3....	"	8993-2	3	4566	3064	3649	120.03	3
4....	2	8993-3	4	4567	3065	3650	120.04	4
5....	3	8993-4	5	4568	3066	3651	120.05	5
6....	4	8993-5	6	4569	3067	3652	120.06	6
7....	5	8993-6	7	4570	3068	3653	120.07	7
8....	6	8993-7	8	4571	3069	3654	120.08	8
9....	7	8993-8	9	4572	3070	3655	120.09	9
10....	Omitted	8993-9	10	4573	3071	3656	120.10	10
11....	8	8993-10	11	4574	3072	3657	120.11	11
12....	9	8993-11	12	4575	3073	3658	120.12	12
13....	10	8993-12	13	4576	3074	3659	120.13	13
14....	11	8993-13	14	4577	3075	3660	120.14	14
15....	12	8993-14	15	4578	3076	3661	120.15	15
16....	13	8993-15	16	4579	3077	3662	120.16	16
17....	14	8993-16	17	4580	3078	3663	120.17	17
18....	15	8993-17	18	4581	3079	3664	120.18	18
19....	16	8993-18	19	4582	3080	3665	120.19	19
20....	17	8993-19	20	4583	3081	3666	120.20	20
21....	18	8993-20	21	4584	3082	3667	120.21	21
22....	19	8993-21	22	4585	3083	3668	120.22	22
23....	20, 21, 22	8993-22	23	4586	3084	3669	120.23	23
24....	23	8993-23	24	4587	3085	3670	120.24	24
25....	24	8993-24	25	4588	3086	3671	120.25	25
26....	25	8993-25	26	4589	3087	3672	120.26	26
27....	26	8993-26	27	4590	3088	3673	120.27	27
28....	27	8993-27	28	4591	3089	3674	120.28	28
29....	28	8993-28	29	4592	3090	3675	120.29	29
30....	29 (c)	8993-29	30	4593	3091	3676	120.30	30
31....	30	8993-30	31	4594	3092	3677	120.31	31
32....	31	8993-31	32	4595	3093	3678	120.32	32
33....	32	8993-32	33	4596	3094	3679	120.33	33
34....	33	8993-33	34	4597	3095	3680	120.34	34
35....	34	8993-34	35	4598	3096	3681	120.35	35
36....	35	8993-35	36	4599	3097	3682	120.36	36
37....	36	8993-36	37	4600	3098	3683	120.37	37
38....	37	8993-37	38	4601	3099	3684	120.38	38
39....	38	8993-38	39	4602	3100	3685	120.39	39
40....	Omitted	8993-39	40	4603	3101	3686	120.40	40
41....	"	8993-40	41	4604	3102	3687	120.41	41
42....	39	8993-41	42	4605	3103	3688	120.42	42
43....	40	8993-42	43	4606	3104	3689	120.43	43
44....	41 (c)	8993-43	44	4607	3105	3690	120.44	44
45....	Omitted	8993-44	45	4608	3106	3691	120.45	45
46....	"	8993-45	46	4609	3107	3692	120.46	46
47....	"	8993-46	47	4610	3108	3693	120.47	47
48....	"	8993-47	48	4611	3109	3694	120.48	48
49....	"	8993-48	49	4612	3110	3695	120.49	49
50....	"	8993-49	50	4613	3111	3696	120.50	50
51....	"	8993-50	51	4614	3112	3697	120.51	51
52....	"	8993-51	52	4615	3113	3698	120.52	52
53....	42	8993-52	53	4616	3061	3699	120.53	53
54....	43	8993-53	54	4617	Omitted	3700	120.54	54
55....	Omitted	Omitted	55	Omitted	"	Omitted	Omitted	55
56....	45	8993-54	56	"	"	"	"	56
57....	Omitted	Omitted	57	"	"	3701	120.55	57
	44 (n)							

UNIFORM CHILD LABOR LAW

Uniform Law Sec.	Ky.	Mass.	Utah
	Carroll's Stats. 1922 Secs. 331a-1 to 331a-17	Gen'l Laws 1921 Ch. 149 Secs. 56, 60-96	Comp. Laws 1917 Secs. 1860-1874
1	Act	Act	Act
2	Similar	Similar	Similar
3	in	in	in
4	Principle	Principle	Principle

UNIFORM COLD STORAGE LAW

Uniform Law Sec.	Ill.	Md.	Mass.	Tenn.	Utah	Wis.
	Rev. Stat. 1923 Ch. 56b.	Code Art. 43 Act 1916 Ch. 163	Gen'l Laws 1921 Ch. 94	Laws 1919 Ch. 116	Comp. Laws 1917 Title 18	Stats. 1923
1.....	119	177-I	Sections 66 to 73	1	840	111.01
2.....	120	177-J		2	841	111.02
3.....	121	177-K		3	842	111.03
4.....	122	177-L		4	843	111.04 (c)
5.....	123	177-M		5	844	111.05
6.....	124	177-N		6	845	111.06
7.....	125	177-O		7	846	111.07
8.....	126	177-P		8	847	111.08
9.....	127	177-Q		9	848 (c)	111.09
10.....	128	177-R		10	849	111.10 (c)
11.....	129	177-S		11	850	111.11
12.....	130	177-T		12	851	111.12
13.....	131	177-U		13	852	111.13
14.....	132	Omitted		14	853	111.14
15.....	133	"		15	854	Omitted

(c) Changed.

UNIFORM CONDITIONAL SALES ACT

	Ariz.	Del.	N. J.	N. Y.	S. D.	W. Va.	Wis.	Alas.	Pa.
Uni- form Law Sec.	Session Laws 1919 Ch. 40	Laws 1919 Ch.192	Pam- phlet Laws 1919 Ch.211 P. 471	Personal Prop- erty Law	Laws 1919 Ch. 137	Barnes' Code 1923 Ch. 99a P. 1862	Stat. 1923	Laws 1919 Ch. 13	Pam- phlet Laws 1925 No. 395
1....	1	1	1	61	1	1	122.01	1	1 (c)
2....	2	2	2	62	2	2	122.02	2	2
3....	3	3	3	63	3	3	122.03	3	3
4....	4	4	4	64	4	4	122.04	4	4
5....	5	5	5	65	5	5	122.05	5	5
6....	6	6	6	66	6	6	122.06	6	6
7....	7	7	7	67	7	7	122.07	7	7
8....	8	8	8	68	8	8	122.08	8	8
9....	9	9	9	69	9	9	122.09	9	9
10....	10	10	10	70	10	10(c)	122.10	10	10
11....	11	11	11	71	11	11	122.11	11	11
12....	12	12	12	72	12	12	122.12	12	12
13....	13	13	13	73	13	13	122.13	13	13
14....	14	14	14	74	14	14	122.14	14	15
15....	15	15	15	75	15	15	122.15	15	14
16....	16	16	16	76	16	16	122.16	16	16
17....	17	17	17	77	17	17	122.17	17	17
18....	18	18	18	78	18	18	122.18	18	18
19....	19	19	19	79	19	19	122.19	19	19
20....	20	20	20	80	20	20	122.20	20	20
21....	21	21	21	80-a	21	21	122.21	21	21
22....	22	22	22	80-b	22	22	122.22	22	22
23....	23	23	23	80-c	23	23	122.23	23	23
24....	24	24	24	80-d	24	24	122.24	24	24
25....	25	25	25	80-e	25	25	122.25	25	25
26....	26	26	26	80-f	26	26	122.26	26	26
27....	27	27	27	80-g	27	27	122.27	27	27
28....	28	28	28	Omitted	28	28	122.28	28	28
29....	29	29	29	80-h	29	29	122.29	29	29
30....	30	30	30	80-i	30	30	122.30	30	30
31....	31	31	31	60	31	31	122.31	31	31
32....	32	32	32	Omitted	32	32	Omitted	32	32 (c)
33....	33	33	33	80-j	33	33	"	33	33

(c) Changed.

UNIFORM DECLARATORY JUDGMENTS ACT

	Colo.	N. J.	N. D.	Pa.	Tenn.	Wyo.
Uniform Law Sec.	Laws of 1923 Ch. 98 Page 268	Pamphlet Laws 1924 Ch. 140 Page 312	Laws 1923 Ch. 237	Pamphlet Laws 1923 Page 840	Laws 1923 Ch. 29	Session Laws 1923
1.....	1	1	1	1	1	1
2.....	2	2	2	2	2	2
3.....	3	3	3	3	3	3
4.....	4	4	4	4	4	4
5.....	5	5	5	5	5	5
6.....	6	6	6	6	6	6
7.....	7	7	7	7	7	7
8.....	8	8	8	8	8	8
9.....	9	9	9	9	9	9
10.....	10	10	10	10	10	10
11.....	11	11	11	11	11	11
12.....	12	12	12	12	12	12
13.....	13	13	13	13	13	13
14.....	14	14	14	14	14	14
15.....	15	15	15	15	15	15
16.....	16	16	16	16	16	16
17.....	Omitted	17	Omitted	Omitted	17	17

UNIFORM FIDUCIARIES ACT

	Colo.	La.	Nev.	N. M.	N. C.	Pa.
Original Uniform Law Section	Laws of 1923 Ch. 65 Page 173	Act. 226 of 1924	Laws 1923 Ch. 44	Laws 1923 Ch. 26	Laws 1923 Ch. 85	Pamphlet Laws 1923 Page 468
1.....	1	1	1	1	1	1
2.....	2	2	2	2	2	2
3.....	3	3	3	3	3	3
4.....	4	4	4	4	4	4
5.....	5	5	5	5	5	5
6.....	6	6	6	6	6	6
7.....	7	7	7	7	7	7
8.....	8	8	8	8	8	8
9.....	9	9	9	9	9	9
10.....	10	10	10	10	10	10
11.....	11	11	11	11	11	11
12.....	12	12	12	12	12	12
13.....	13	13	13	13	13	13
14.....	14	14	14	14	14	14
15.....	15	15	15	15	15	15
16.....	Omitted	16	16	16	16	16

UNIFORM DESERTION AND NON-SUPPORT ACT

Uniform Law Sec.	Ala.	Del.	Hawaii	Ill.	Kan.	N. D.	Mass.	Miss.	Nev.
	Code of 1923	Rev. Stat. 1915	Rev. Laws 1915	Rev. Stat. 1923 Ch. 38	Rev. Stat. 1923 Ch. 21	Laws 1923 Ch. 166 (Laws 1911 Ch.123)	Gen'l Laws 1921 Ch. 273	Hemingway's Code 1921 Supp.	Laws 1923 Ch. 170
1....	Act	Secs. 3033	Secs. 2970	2	442	9595	1	2056-a	1
2....	adopted only	to 3046	2970A	3	443	9596	3	2056-b	2
3....	in principle		2971	4	444	9597	4	2056-c	3
4....				5	445	9598	5	2056-d	4
5....				6	446	9599	6	2056-e	5
6....				7	447	9600	7	2056-f	6
7....				8	448	9601	8	2056-g	Omitted
8....				9	Omitted	9602	9	2056-h	7
9....				10	"	9603	10	Omitted	8
10....				11	"	Omitted	Omitted	"	Omitted
				12 (n)					

(n) New.

UNIFORM DESERTION AND NON-SUPPORT ACT

Uniform Law Sec.	N. J.	Tex.	Utah	Va.	Vt.	W. Va.	Wis.	Wyo.	Alas.
	Laws of 1917 Ch. 61 P. 111	Penal Code Arts. 640a-640f	Comp. Laws 1917 (Laws 1911 Ch. 105)	Laws 1922 Secs. 1936-1944	Gen'l Laws 1915 Ch. 165	Barnes' Code 1923 Ch. 144	Stats. 1911 Ch. 576	Comp. Stats. 1920	Laws 1919
1....	1	Does not	8112 (c)	Does not	3536 (c)	16 c-1	4587c-1	5031	1
2....	Omitted	sub-	8112	not	3537 (c)	16 c-2 (c)	4587c-2	5032	2
3....	2	stantially	8112	sub-	3538	16 c-3	4587c-3	5033	3
4....	3	con-	8112	stantially	3539 (c)	16 c-4	4587c-4	5034	4
5....	4	form	8112	ally	3540	16 c-5	4587c-5	5035	5
6....	5		8113 (c)	conform	3541	16 c-6	4587c-6	5036	6
7....	Omitted		Omitted	but	3542	16 c-7(c)	Omitted	Omitted	7
8....	"		"	similar	3543	16 c-8	"	"	8
9....	"		"	in principle	Omitted	Omitted	"	"	9
10....	6		"		"	"	"	"	10

(c) Changed.

UNIFORM EXTRADITION OF PERSONS OF UNSOUND MIND ACT

	Alaska	Ill.	La.	Md.	Nev.	S. D.	Tenn.	Wis.
Uni- form Law Sec.	Laws 1923 Ch. 12	Laws 1917 p. 345 (Rev. Stat. 1923 Ch. 60 Secs. 18- 24, 46)	Act 221 1918	Code Art. 42 Act 1918 Ch. 150	Laws 1917 Ch. 133 Rev. Laws 1919 Supp. p. 3424	Laws 1921 Ch. 341	Laws 1917 Ch. 115 Shannon's Code Vol. 5	(Laws 1919 Ch. 277) Wis. Stats. 1923
1....	1	1	1	21	1	1	5499 a 1	Omitted
2....	2	2	2	22	2	2	5499 a 2	4854 (1)
							5499 a 3	
							5499 a 4	
3....	3	3	3	23	3	3	5499 a 5	4854 (2)
4....	4	4	4	24	4	4	5499 a 6	4854 (3)
							5499 a 7	
							5499 a 8	
							5499 a 9	
							5499 a 10	
5....	5	5	5	25	5	5	5499 a 11	4854 (4)
6....	6	6	6	26	6	6	5499 a 12	4854 (5)
7....	7	7	7	Omitted	7	7	Omitted	Omitted

UNIFORM FLAG LAW

	Ariz.	La.	Me.	Md.	Mich.	S. D.	Tenn.	Wash.	Wis.
Uni- form Law Sec.	Session Laws 1918 Ch. 8	Act 220 of 1918	Laws 1919 Ch.158	Code Art. 27 Act 1918 Ch. 281	Public Acts 1923 P. 359	Laws 1923 Ch. 294	Laws 1923 Ch. 25	Reming- ton's Code 1922	Laws 1919 Ch. 113
1....	1	1	1	74	1	1	1	2675-1	4575-k
2....	2	2	2	74-a	2	2	2	2675-2	4575-h
3....	3	3	3	74-b	3	3	3	2675-3	4575-i
4....	4	4	4	74-c	4	4	4	2675-4	4575-j
5....	5	5	5	74-d	5	5	5	2675-5	4575-l
6....	6	6	6	Omitted	Omitted	6	6	Omitted	Omitted
7....	7	7	7	74-e	6	7	7	2675-6	4575-la
8....	8	8	8	74-f	Omitted	8	8	2675-7	Omitted
9....	9	9	9	Omitted	"	9	9	Omitted	"
					7 (n)				

(n) New.

UNIFORM FOREIGN DEPOSITIONS ACT

	Alas.	Ariz.	Cal.	La.	Md.	Mich.	Nev.	Pa.	S. D.	Tenn.
Orig- inal Uni- form Law Sec.	Laws 1923 Ch.13	Session Laws 1921 Ch.3	Code of Civil Proced- ure of Cal.	Act 34 of 1922	Code Art. 35 Act 1922 Ch. 480	Public Acts 1921 Page 360 No. 179T	Laws 1921 Ch.76	Pam- phlet Laws 1921 Page 374	Laws 1921 Ch.413	Laws 1923 Ch.26
1....	1	1	2036-a	1	36-A	1	1	1	1	1
2....	2	2	Omitted	2	36-B	2	2	2	2	
3....	3	3	"	3	36-C	3	3	3	3	3
4....	4	4	"	4	Omitted	4	4	4	4	4
5....	5	5	"	5	"	Omitted	5	Omitted	5	5

UNIFORM FRAUDULENT CONVEYANCE ACT

Uniform Law Sec.	Ariz.	Del.	Md.	Mass.	Mich.	Minn.
	Session Laws 1919 Ch. 131	Laws 1919 Ch. 207	Code Art. 36-B Md. Act of 1920 Ch. 682	Mass. Stat. 1924 Ch. 147	Comp. Laws 1922 Supp.	Laws 1921 Ch. 415 Supp. 1923 Secs. 8475- 8488
1.....	1	1	1	1	12003 (1)	1
2.....	2	2	2	2	12003 (2)	2
3.....	3	3	3	3	12003 (3)	3
4.....	4	4	4	4	12003 (4)	4
5.....	5	5	5	5	12003 (5)	5
6.....	6	6	6	6	12003 (6)	6
7.....	7	7	7	7	12003 (7)	7
8.....	8	8	8	8	12003 (8)	8
9.....	9	9	9	9	12003 (9)	9
10.....	10	10	10	10	12003 (10)	10
11.....	11	11	11	11	12003 (11)	11
12.....	12	12	12	12	12003 (12)	12
13.....	13	13	13	13	12003 (13)	13
14.....	14	14	14 (c)	14	12003 (14)	14 15(n)

(c) Changed.

(n) New section.

UNIFORM FRAUDULENT CONVEYANCE ACT

Law Sec.	N. H.	N. J.	Pa.	S. D.	Tenn.	Wis.
	Laws 1919 Ch. 63	Laws 1919 Ch. 213 P. 500	Pamphlet Laws 1921 p. 1045	Laws 1919 Ch. 209	Laws 1919 Ch. 125	Stat. 1921 Uniform Fraud. Con- veyance Act Ch. 242
1.....	1	1	1	1	1	2320-1
2.....	2	2	2	2	2	2320-2
3.....	3	3	3	3	3	2320-3
4.....	4	4	4	4	4	2320-4
5.....	5	5	5	5	5	2320-5
6.....	6	6	6	6	6	2320-6
7.....	7	7	7	7	7	2320-7
8.....	8	8	8	8	8	2320-8
9.....	9	9	9	9	9	2320-9
10.....	10	10	10	10	10	2320-10
11.....	11	11	11	11	11	2320-11
12.....	12	12	12	12	12	2320-12
13.....	13	13	13	13	13	2320-13
14.....	14	14	14	14	14	Omitted

UNIFORM ILLEGITIMACY ACT

Uniform Law Section	Nev.	N. M.	N. D.	S. D.
	Laws 1923 Ch. 87	Laws 1923 Ch. 32	Laws 1923 Ch. 165	Laws 1923 Ch. 295
1.....	1	1	1	1
2.....	2	2	2	2
3.....	3	3	3	3
4.....	4	4	4	4
5.....	5	5	5	5
6.....	6	6	Omitted	6
7.....	7	7	6	7
8.....	8	8	7	8
9.....	9	9	8	9
10.....	10	10	9	10
11.....	11	11	10	11
12.....	12	12	11	12
13.....	13	13	12	13
14.....	14	14	13	14
15.....	15	15	14	15
16.....	16	16	15	16
17.....	17	17	16	17
18.....	18	18	17	18
19.....	19	19	18	19
20.....	20	20	19	20
21.....	21	21	20	21
22.....	22	22	21	22
23.....	23	23	22	23
24.....	24	24	23	24
25.....	25	25	24	25
26.....	26	26	25	26
27.....	27	27	26	27
28.....	28	28	27	28
29.....	29	29	28	29
30.....	30	30	29	30
31.....	31	31	30	31
32.....	32	32	31	32
33.....	33	33	32	33
34.....	34	34	33	34
35.....	35	35	34	35
36.....	36	36	35	36
37.....	37	37	36	37
38.....	38	38	37	38
39.....	39	39	Omitted	39

UNIFORM LAND REGISTRATION ACT

Uniform Law Sec.	Ga.	Utah	Va.	Uniform Law Sec.	Ga.	Utah	Va.
	Park's Code 1922 Supp.	Comp. Laws 1917	Code 1924		Park's Code 1922 Supp.	Comp. Laws 1917	Code 1924
1....	Sections	4920	5225-(1)	46....	Sections	4965	5225-(46)
2....	4215 (a-)	4921	5225-(2)	47....	4215 (a-)	4966	5225-(47)
3....	to 4215	4922	5225-(3)	48....	to 4215	4967	5225-(48)
4....	(ppppp)	4923	5225-(4)	49....	(ppppp)	4968	5225-(49)
5....	Adopted	4924	5225-(5)	50....	Adopted	4969	5225-(50)
6....	with	4925	5225-(6)	51....	with	4970	5255-(51)
7....	modifica-	4926	5225-(7)	52....	modifica-	4971	5225-(52)
8....	tions.	4927	5225-(8)	53....	tions.	4972	5225-(53)
9....		4928	5225-(9)	54....		4973	5225-(54)
10....		4929	5225-(10)	55....		4974	5225-(55)
11....		4930	5225-(11)	56....		4975	5255-(56)
12....		4931	5225-(12)	57....		4976	5225-(57)
13....		4932	5225-(13)	58....		4977	5255-(58)
14....		4933	5225-(14)	59....		4978	5225-(59)
15....		4934	5225-(15)	60....		4979	5225-(60)
16....		4935	5225-(16)	61....		4980	5225-(61)
17....		4936	5225-(17)	62....		4981	5225-(62)
18....		4937	5225-(18)	63....		4982	5225-(63)
19....		4938	5225-(19)	64....		4983	5225-(64)
20....		4939	5225-(20)	65....		4984	5225-(65)
21....		4940	5225-(21)	66....		4985	5225-(66)
22....		4941	5225-(22)	67....		4986	5225-(67)
23....		4942	5225-(23)	68....		4987	5225-(68)
24....		4943	5225-(24)	69....		4988	5225-(69)
25....		4944	5225-(25)	70....		4989	5225-(70)
26....		4945	5225-(26)	71....		4990	5225-(71)
27....		4946	5225-(27)	72....		4991	5225-(72)
28....		4947	5225-(28)	73....		4992	5225-(73)
29....		4948	5225-(29)	74....		4993	5225-(74)
30....		4949	5225-(30)	75....		4994	5225-(75)
31....		4950	5225-(31)	76....		4995	5225-(76)
32....		4951	5225-(32)	77....		4996	5225-(77)
33....		4952	5225-(33)	78....		4997	5225-(78)
34....		4953	5225-(34)	79....		4998	5225-(79)
35....		4954	5225-(35)	80....		4999	5225-(80)
36....		4955	5225-(36)	81....		5000	5225-(81)
37....		4956	5225-(37)	82....		5001	5225-(82)
38....		4957	5225-(38)	83....		5002	5225-(83)
39....		4958	5225-(39)	84....		5003	5225-(84)
40....		4959	5225-(40)	85....		5004	5225-(85)
41....		4960	5225-(41)	86....		5005	5225-(86)
42....		4961	5225-(42)	87....		5006	5225-(87)
43....		4962	5225-(43)	88....		5007	5525-(88)
44....		4963	5225-(44)	89....		Omitted	5225-(89)
45....		4964	5225-(45)	90....		5008	5225-(90)

UNIFORM LIMITED PARTNERSHIP ACT

Uni- form Law Sec.	Idaho	Ill.	Md.	Mass.	Minn.	N. J.	N. Y.
	Comp. Stats. 1919	Rev. Stat. 1923 Ch. 106a	Code Art. 73 Act 1914 Ch. 289	Laws 1923 Ch. 112 (Gen'l Laws 1921 Ch. 109)	Laws 1919 Ch. 498 Supp. 1923 Secs. 7353- 7383	Laws 1911 Ch. 211 p. 471	Partner- ship Law
1....	5782	45	1	1	1	1	90
2....	5783	46	2	2	2	2	91
3....	5784	47	3	3	3	3	92
4....	5785	48	4	4	4	4	93
5....	5786	49	5	5	5	5	94
6....	5787	50	6	6	6	6	95
7....	5788	51	7	7	7	7	96
8....	5789	52	8	8	8	8	97
9....	5790	53	9	9	9	9	98
10....	5791	54	10	10	10	10	99
11....	5792	55	11	11	11	11	100
12....	5793	56	12	12	12	12	101
13....	5794	57	13	13	13	13	102
14....	5795	58	14	14	14	14	103
15....	5796	59	15	15	15	15	104
16....	5797	60	16	16	16	16	105
17....	5798	61	17	17	17	17	106
18....	5799	62	18	18	18	18	107
19....	5800	63	19	19	19	19	108
20....	5801	64	20	20	20	20	109
21....	5802	65	21	21	21	21	110
22....	5803	66	22	22	22	22	111
23....	5804	67	22-A	23	23	23	112
24....	5805	68	22-B	24	24	24	113
25....	5806	69	22-C	25	25	25	114
26....	5807	70	22-D	26	26	26	115
27....	5808	71	22-E	27	27	27	116
28....	5809	72	22-F	28	28	28	117
29....	5810	73	22-G	29	29	29	118
30....	5811	74	22-H	30	30	30	119
31....	5812	75	Omitted	31	31	31	Omitted

UNIFORM LIMITED PARTNERSHIP ACT—*Concluded.*

Uni- form Law Sec.	Pa. Pamphlet Laws 1917 Page 55	Tenn. Laws 1919 Ch. 120	Utah Laws of Utah 1921 Chap. 88	Va. Code 1924	Wis. Stats. 1923	Alaska Laws 1917 Ch. 71
1....	1	1	1	4359-(46)	124.01	1
2....	2	2	2	4359-(47)	124.02	2
3....	3	3	3	4359-(48)	124.03	3
4....	4	4	4	4359-(49)	124.04	4
5....	5	5	5	4359-(50)	124.05	5
6....	6	6	6	4359-(51)	124.06	6
7....	7	7	7	4359-(52)	124.07	7
8....	8	8	8	4359-(53)	124.08	8
9....	9	9	9	4359-(54)	124.09	9
10....	10	10	10	4359-(55)	124.10	10
11....	11	11	11	4359-(56)	124.11	11
12....	12	12	12	4359-(57)	124.12	12
13....	13	13	13	4359-(58)	124.13	13
14....	14	14	14	4359-(59)	124.14	14
15....	15	15	15	4359-(60)	124.15	15
16....	16	16	16	4359-(61)	124.16	16
17....	17	17	17	4359-(62)	124.17	17
18....	18	18	18	4359-(63)	124.18	18
19....	19	19	19	4359-(64)	124.19	19
20....	20	20	20	4359-(65)	124.20	20
21....	21	21	21	4359-(66)	124.21	21
22....	22	22	22	4359-(67)	124.22	22
23....	23	23	23	4359-(68)	124.23	23
24....	24	24	24	4359-(69)	124.24	24
25....	25	25	25	4359-(70)	124.25	25
26....	26	26	26	4359-(71)	124.26	26
27....	27	27	27	4359-(72)	124.27	27
28....	28	28	28	4359-(73)	124.28	28
29....	29	29	29	4359-(74)	124.29	29
30....	30	30	30	4359-(75)	124.30	30
31....	31 (a)	31	31	4359-(76)	Omitted	31

(a) Addition.

UNIFORM ANNULMENT OF MARRIAGE AND DIVORCE ACT

Uniform Law Sec.	Wis.	Del.	N.J.
	Laws 1909 Rev. 1917	Laws 1907 Ch. 86 p. 1411 Rev. 1915	Pamphlet Laws 1907 P. 474 II Comp. Stat. p. 2021
1.....	2351	3004 (o)	Act Adopted in Substance
2.....	2353	3005	
3.....	2356	3006	
4.....	2357	3007	
5.....	2360	3008	
6.....	2348	3009	
7.....	2354	3010	
8.....	2355	3012	
9.....	2354 (c)	3013	
10.....	2355 (c)	3014	
11.....	2360-f	Omitted	
12.....	2360-g(c)	3021 (c)	
13.....	2360-g	3022	
14.....	2360-i	3023	
15.....	2360-j	3024	
16.....	Omitted	3025	
17.....	"	3026	
18.....	2370	3027	
19.....	2360-n	3028	
20.....	Omitted	3029	
21.....	"	3030	
22.....	2360-r	3032	
23.....	Omitted	Omitted	
24.....	"	"	

New—Wisconsin Sec. 2352; Delaware Sec. 3031.

(o) Omitted Delaware paragraphs (f) (g) of Sec. 1.

(c) Changed.

UNIFORM MARRIAGE EVASION ACT

	Ill.	La.	Mass.	Vt.	Wis.
Uniform Law Sec.	Laws 1915 p. 496 (Rev. Stat. 1923 Ch. 89 Secs. 20-26)	Act 151 of 1914	Laws 1913 Ch. 360 Gen'l Laws 1921 Ch. 207 Secs. 10-13, 50	General Laws 1912	Laws 1915 Ch. 270 Stats. 1917
1....	1	1	1	3514	2330 m (1)
2....	2	2	2	3515	2330 m (2)
3....	3	3	3	Omitted	Omitted
4....	4	4	4	"	"

UNIFORM MARRIAGE AND MARRIAGE LICENSE ACT

	Mass.	Wis.		Mass.	Wis.
Uniform Law Sec.	Laws 1911	Wis. Stat. 1917 Ch. 245	Uniform Law Sec.	Laws 1911	Wis. Stat. 1917 Ch. 245
1.....	Adopted with modifications but sections do not conform	2339 n-1	17.....	Adopted with modifications but sections do not conform	2339 n-16
2.....		2339 n-2	18.....		2339 n-17
3.....		2339 n-3	19.....		2339 n-18
4.....		2339 n-4	20.....		2339 n-19
5.....		2339 n-5	21.....		2339 n-20
6.....		2339 n-6	22.....		Omitted
7.....		2339 n-7	23.....		2339 n-21
8.....		2339 n-8	24.....		2339 n-22
9.....		2339 n-9	25.....		2339 n-23
10.....		2339 n-10	26.....		2339 n-24
11.....		2339 n-11	27.....		2339 n-25
12.....		2339 n-12	28.....		Omitted
13.....		2339 n-13	29.....		2339 n-26
14.....		2339 n-14	30.....		2339 n-27
15.....		Omitted	31.....		Omitted
16.....		2339 n-15	32.....		"

UNIFORM NEGOTIABLE INSTRUMENTS ACT

	Ala.	Alaska	Ariz.	Ark.	Cal.	Colo.	Conn.	Del.	D. C.
Uniform Laws Sec.	Code of Ala. of 1923	Laws 1913 Ch. 64	Rev. Stat. 1913 Civil Code	Dig. Stat. 1921 Acts of 1913 Ch. 81	Civil Code Division 3, Part IV Title XV	Comp. Laws 1921	Gen. Stat. 1918	Rev. Stat. 1915	Code 1919 31 Stat. L. part 1, pp. 1395 et seq.
1	9029	1	4146	7767	3082	3818	4359	2645	1305
2	9030	2	4147	7768	3083	3819	4360	2646	1306
3	9031	3	4148	7769	3084	3820	4361	2647	1307
4	9032	4	4149	7770	3085	3821	4362	2648	1308
5	9033	5	4150	7771	3086	3822	4363	2649	1309
6	9034	6	4151	7772	3087	3823	4364	2650	1310
7	9035	7	4152	7773	3088	3824	4365	2651	1311
8	9036	8	4153	7774	3089	3825	4366	2652	1312
9	9037	9	4154	7775	3090	3826	4367	2653	1313
10	9038	10	4155	7776	3091	3827	4368	2654	1314
11	9039	11	4156	7777	3092	3828	4369	2655	1315
12	9040	12	4157	7778	3093	3829	4370	2656	1316
13	9041	13	4158	7779	3094	3830	4371	2657	1317
14	9042	14	4159	7780	3095	3831	4372	2658	1318
15	9043	15	4160	7781	3096	3832	4373	2659	1319
16	9044	16	4161	7782	3097	3833	4374	2660	1320
17	9045	17	4162	7783	3098	3834	4375	2661	1321
18	9046	18	4163	7784	3099	3835	4376	2662	1322
19	9047	19	4164	7785	3100	3836	4377	2663	1323
20	9048	20	4165	7786	3101	3837	4378	2664	1324
21	9049	21	4166	7787	3102	3838	4379	2665	1325
22	9050	22	4167	7788	3103	3839	4380	2666	1326
23	9051	23	4168	7789	3104	3840	4381	2667	1327
24	9052	24	4169	7790	3105	3841	4382	2668	1328
25	9053	25	4170	7791	3106	3842	4383	2669	1329
26	9053	26	4171	7792	3107	3843	4384	2670	1330
27	9053	27	4172	7793	3108	3844	4385	2671	1331
28	9054	28	4173	7794	3109	3845	4386	2672	1332
29	9055	29	4174	7795	3110	3846	4387	2673	1333
30	9056	30	4175	7796	3111	3847	4388	2674	1334
31	9057	31	4176	7797	3112	3848	4389	2675	1335
32	9058	32	4177	7798	3113	3849	4390	2676	1336
33	9059	33	4178	7799	3114	3850	4391	2677	1337
34	9060	34	4179	7800	3115	3851	4392	2678	1338
35	9061	35	4180	7801	3116	3852	4393	2679	1339
36	9062	36	4181	7802	3117	3853	4394	2680	1340
37	9063	37	4182	7803	3118	3854	4395	2681	1341
38	9064	38	4183	7804	3119	3855	4396	2682	1342
39	9065	39	4184	7805	3120	3856	4397	2683	1343
40	9066	40	4185	7806	3121	3857	4398	2684	1344
41	9067	41	4186	7807	3122	3858	4399	2685	1345
42	9068	42	4187	7808	3123	3859	4400	2686	1346
43	9069	43	4188	7809	3124	3860	4401	2687	1347
44	9070	44	4189	7810	3125	3861	4402	2688	1348
45	9071	45	4190	7811	3126	3862	4403	2689	1349
46	9072	46	4191	7812	3127	3863	4404	2690	1350
47	9073	47	4192	7813	3128	3864	4405	2691	1351
48	9074	48	4193	7814	3129	3865	4406	2692	1352
49	9075	49	4194	7815	3130	3866	4407	2693	1353
50	9076	50	4195	7816	3131	3867	4408	2694	1354

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	Code of Ala. of 1923	Laws 1913 Ch. 64	Rev. Stat. 1913 Civil Code	Dig. Stat. 1921 Acts of 1913 Ch. 81	Civil Code Division 3, Part IV Title XV	Comp. Laws 1921	Gen. Stat. 1918	Rev. Stat. 1915	Code 1919 31 Stat. L. part 1, Pp. 1395 et seq.
51	9077	51	4196	7817	3132	3868	4409	2695	1355
52	9078	52	4197	7818	3133	3869	4410	2696	1356
53	9079	53	4198	7819	3134	3870	4411	2697	1357
54	9080	54	4199	7820	3135	3871	4412	2698	1358
55	9081	55	4200	7821	3136	3872	4413	2699	1359
56	9082	56	4201	7822	3137	3873	4414	2700	1360
57	9083	57	4202	7823	3138	3874	4415	2701	1361
58	9084	58	4203	7824	3139	3875	4416	2702	1362
59	9085	59	4204	7825	3140	3876	4417	2703	1363
60	9086	60	4205	7826	3141	3877	4418	2704	1364
61	9087	61	4206	7827	3142	3878	4419	2705	1365
62	9088	62	4207	7828	3143	3879	4420	2706	1366
63	9089	63	4208	7829	3144	3880	4421	2707	1367
64	9090	64	4209	7830	3145	3881	4422	2708	1368
65	9091	65	4210	7831	3146	3882	4423	2709	1369
66	9092	66	4211	7832	3147	3883	4424	2710	1370
67	9093	67	4212	7833	3148	3884	4425	2711	1371
68	9094	68	4213	7834	3149	3885	4426	2712	1372
69	9095	79	4214	7835	3150	3886	4427	2713	1373
70	9096	70	4215	7836	3151	3887	4428	2714	1374
71	9097	71	4216	7837	3152	3888	4429	2715	1375
72	9098	72	4217	7838	3153	3889	4430	2716	1376
73	9099	73	4218	7839	3154	3890	4431	2717	1377
74	9100	74	4219	7840	3155	3891	4432	2718	1378
75	9101	75	4220	7841	3156	3892	4433	2719	1379
76	9102	76	4221	7842	3157	3893	4434	2720	1380
77	9103	77	4222	7843	3158	3894	4435	2721	1381
78	9104	78	4223	7844	3159	3895	4436	2722	1382
79	9105	79	4224	7845	3160	3896	4437	2723	1383
80	9106	80	4225	7846	3161	3897	4438	2724	1384
81	9107	81	4226	7847	3162	3898	4439	2725	1385
82	9108	82	4227	7848	3163	3899	4440	2726	1386
83	9109	83	4228	7849	3164	3900	4441	2727	1387
84	9109	84	4229	7850	3165	3901	4442	2728	1388
85	9110	85	4230	7851	3166	3902	4443	2729	1389(ad)
86	9111	86	4231	7852	3167	3903	4444	2730	1390
87	9112	87	4232	7853	3168	3904	4445	2731	1391
88	9113	88	4233	7854	3169	3905	4446	2732	1392
89	9114	89	4234	7855	3170	3906	4447	2733	1393
90	9115	90	4235	7856	3171	3907	4448	2734	1394
91	9116	91	4236	7857	3172	3908	4449	2735	1395
92	9117	92	4237	7858	3173	3909	4450	2736	1396
93	9117	93	4238	7859	3174	3910	4451	2737	1397
94	9118	94	4239	7860	3175	3911	4452	2738	1398
95	9119	95	4240	7861	3176	3912	4453	2739	1399
96	9119	96	4241	7862	3177	3913	4454	2740	1400
97	9120	97	4242	7863	3178	3914	4455	2741	1401
98	9121	98	4243	7864	3179	3915	4456	2742	1402
99	9122	99	4244	7865	3180	3916	4457	2743	1403

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100	9123	100	4245	7866	3181	3917	4458	2744	1404
101	9124	101	4246	7867	3182	3918	4459	2745	1405
102	9125	102	4247	7868	3183	3919	4460	2746	1406
103	9126	103	4248	7869	3184	3920	4461	2747	1407
104	9127	104	4249	7870	3185	3921	4462	2748	1408
105	9128	105	4250	7871	3186	3922	4463	2749	1409
106	9128	106	4251	7872	3187	3923	4464	2750	1410
107	9129	107	4252	7873	3188	3924	4465	2751	1411
108	1950	108	4253	7874	3189	3925	4466	2752	1412
109	9131	109	4254	7875	3190	3926	4467	2753	1413
110	9131	110	4255	7876	3191	3927	4468	2754	1414
111	9131	111	4256	7877	3192	3928	4469	2755	1415
112	9132	112	4257	7878	3193	3929	4470	2756	1416
113	9133	113	4258	7879	3194	3930	4471	2757	1417
114	9134	114	4259	7880	3195	3931	4472	2758	1418
115	9135	115	4260	7881	3196	3932	4473	2759	1419
116	9136	116	4261	7882	3197	3933	4474	2760	1420
117	9137	117	4262	7883	3198	3934	4475	2761	1421
118	9138	118	4263	7884	3199	3935	4476	2762	1422(ad)
119	9139	119	4264	7885	3200	3936	4477	2763	1423
120	9140	120	4265	7886	3201	3937	4478	2764	1424
121	9141	121	4266	7887	3202	3938	4479	2765	1425
122	9142	122	4267	7888	3203	3939	4480	2766	1426
123	9143	123	4268	7889	3204	3940	4481	2767	1427
124	9144	124	4269	7890	3205	3941	4482	2768	1428
125	9145	125	4270	7891	3206	3942	4483	2769	1429
126	9146	126	4271	7892	3207	3943	4484	2770	1430
127	9147	127	4272	7893	3208	3944	4485	2771	1431
128	9148	128	4273	7894	3209	3945	4486	2772	1432
129	9149	129	4274	8795	3210	3946	4487	2773	1433
130	9150	130	4275	7896	3211	3947	4488	2774	1434
131	9151	131	4276	7897	3212	3948	4489	2775	1435
132	9152	132	4277	7898	3213	3949	4490	2776	1436
133	9153	133	4278	7899	3214	3950	4491	2777	1437
134	9154	134	4279	7900	3215	3951	4492	2778	1438
135	9155	135	4280	7901	3216	3952	4493	2779	1439
136	9156	136	4281	7902	3217	3953	4494	2780	1440
137	9157	137	4282	7903	3218	3954	4495	2781	1441
138	9158	138	4283	7904	3219	3955	4496	2782	1442
139	9159	139	4284	7905	3220	3956	4497	2783	1443
140	9160	140	4285	7906	3221	3957	4498	2784	1444
141	9161	141	4286	7907	3222	3958	4499	2785	1445
142	9162	142	4287	7908	3223	3959	4500	2786	1446
143	9163	143	4288	7909	3224	3960	4501	2787	1447
144	9164	144	4289	7910	3225	3961	4502	2788	1448
145	9165	145	4290	7911	3226	3962	4503	2789	1449
146	9165	146	4291	7912	3227	3963	4504	2790	1450
147	9166	147	4292	7913	3228	3964	4505	2791	1451
148	9167	148	4293	7914	3229	3965	4506	2792	1452
149	9168	149	4294	7915	3230	3966	4507	2793	1453

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	Code of Ala. of 1923	Laws 1913 Ch. 64	Rev. Stat. 1913 Civil Code	Dig. Stat. 1921 Acts of 1913 Ch. 81	Civil Code Division 3, Part Title IV XV	Comp. Laws 1921	Gen. Stat. 1918	Rev. Stat. 1915	Code 1919 31 Stat. L. part 1, Pp. 1395 et seq.
150	9169	150	4295	7916	3231	3967	4508	2794	1454
151	9170	151	4296	7917	3232	3968	4509	2795	1455
152	9171	152	4297	7918	3233	3969	4510	2796	1456
153	9172	153	4298	7919	3234	3970	4511	2797	1457
154	9173	154	4299	7920	3235	3971	4512	2798	1458
155	9174	155	4300	7921	2336	3972	4513	2799	1459
156	9175	156	4301	7922	3237	3973	4514	2800	1460
157	9176	157	4302	7923	3238	3974	4515	2801	1461
158	9177	158	4303	7924	3239	3975	4516	2802	1462
159	9178	159	4404	7925	3240	3976	4517	2803	1463
160	9179	160	4305	7926	3241	3977	4518	2804	1464
161	9180	161	4306	7927	3242	3978	4519	2805	1465
162	9181	162	4307	7928	3243	3979	4520	2806	1466
163	9182	163	4308	7929	3244	3980	4521	2807	1467
164	9183	164	4309	7930	3245	3981	4522	2808	1468
165	9184	165	4310	7931	3246	3982	4523	2809	1469
166	9185	166	4311	7932	3247	3983	4524	2810	1470
167	9186	167	4312	7933	3248	3984	4525	2811	1471
168	9187	168	4313	7934	3249	3985	4526	2812	1472
169	9188	169	4314	7935	3250	3986	4527	2813	1473
170	9189	170	4315	7936	3251	3987	4528	2814	1474
171	9190	171	4316	7937	3252	3988	4529	2815	1475
172	9191	172	4317	7938	3253	3989	4530	2816	1476
173	9191	173	4318	7939	3254	3990	4531	2817	1477
174	9192	174	4319	7940	3255	3991	4532	2818	1478
175	9193	175	4320	7941	3256	3992	4533	2819	1479
176	9194	176	4321	7942	3257	3993	4534	2820	1480
177	9195	177	4322	7943	3258	3994	4535	2821	1481
178	9196	178	4323	7944	3259	3995	4536	2822	1482
179	9197	179	4324	7945	3260	3996	4537	2823	1483
180	9198	180	4325	7946	3261	3997	4538	2824	1484
181	9199	181	4326	7947	3262	3998	4539	2825	1485
182	9200	182	4327	7948	3263	3999	4540	2826	1486
183	9201	183	4328	7949	3264	4000	4541	2827	1487
184	9202	184	4329	7950	3265	4001	4542	2828	1488
185	9203	185	4330	7951	3265-a	4002	4543	2829	1489
186	9204	186	4331	7952	3265-b	4003	4544	2830	1490
187	9205	187	4332	7953	3265-c	4004	4545	2831	1491
188	9206	188	4333	7954	3265-d	4005	4546	2832	1492
189	9207	189	4334	7955	3265-e	4006	4547	2833	1493
190	9208	190	Omitted	7760	Omitted	4007	Omitted	2834	Omitted
191	9209	191	4335	7761	3266	4008	4358	2835	1304
192	9210	192	4336	7762	3266-a	4009	4358	2836	1304
193	9211	193	4337	7763	3266-b	4010	4358	2837	1304
194	9212	194	4338	7764	3266-c	4011	4358	2838	1304
195	9213	195	Omitted	7765	3266-d	4012	4358	2839	1304
196	9214	196	4339	7766	3266-d	4013	4358	2840	1304
197	Omitted	197	Omitted	Omitted	Omitted	Omitted	Omitted	Omitted	Omitted
198	"	198	"	"	"	"	"	"	"
								new 2841 2842	

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	Rev. Stat. 1920	Rev. Laws 1915	Comp. Stat. 1919	Rev. Stat. 1921 Ch. 98	Burn's Stat. 1914	Code of 1924	Rev. Stat. 1923	Carroll's Stat. 1922	Laws 1904 Art. 64 Wolff's Stat. 1920 p. 159 etc.
1	4675	3451	5868	21	9089a	9461 (1)	52-201	3720b-1	1
2	4676	3452	5869	22	9089b	9462 (2)	52-202	3720b-2	2
3	4677	3453	5870	23	9089c	9463 (3)	52-203	3720b-3	3
4	4678-9	3454	5871	24	9089d	9464 (4)	52-204	3720b-4	4
5	4679	3455	5872	25	9089e	9465 (5)	52-205	3720b-5	5
6	4680	3456	5873	26	9089f	9466 (6)	52-206	3720b-6	6
7	4681	3457	5874	27	9089g	9467 (7)	52-207	3720b-7	7
8	4682	3458	5875	28	9089h	9468 (8)	52-208	3720b-8	8
9	4683	3459	5876	29	9089i	9469 (9)	52-209	3720b-9	9
10	4684	3460	5877	30	9089j	9470 (10)	52-210	3720b-10	10
11	4685	3461	5878	31	9089k	9471 (11)	52-211	3720b-11	11
12	4686	3462	5879	32	9089l	9472 (12)	52-212	3720b-12	12
13	4687	3463	5880	33	9089m	9473 (13)	52-213	3720b-13	13
14	4688	3464	5881	34	9089n	9474 (14)	52-214	3720b-14	14
15	4689	3465	5882	35	9089o	9475 (15)	52-215	3720b-15	15
16	4690	3466	5883	36	9089p	9476 (16)	52-216 (o)	3720b-16	16
17	4691	3467	5884	37	9089q	9477 (17)	52-217	3720b-17	17
18	4692	3468	5885	38	9089r	9478 (18)	52-218	3720b-18	18
19	4693	3469	5886	39	9089s	9479 (19)	52-219	3720b-19 (c)	19
20	4694	3470	5887	40	9089t	9480 (20)	52-220	3720b-20	20
21	4695	3471	5888	41	9089u	9481 (21)	52-221	3720b-21	21
22	4696	3472	5889	42	9089v	9482 (22)	52-222	3720b-22	22
23	4697	3473	5890	43	9089w	9483 (23)	52-223	3720b-23	23
24	4698	3474	5891	44	9089x	9484 (24)	52-301	3720b-24	24
25	4699	3475	5892	45	9089y	9485 (25)	52-302	3720b-25	25
26	4700	3476	5893	46	9089z	9486 (26)	52-303	3720b-26	26
27	4701	3477	5894	47	9089a-1	9487 (27)	52-304	3720b-27	27
28	4702	3478	5895	48	9089b-1	9488 (28)	52-305	3720b-28	28
29	4703	3479	5896	49	9089c-1	9489 (29)	52-306	3720b-29	29
30	4704	3480	5897	50	9089d-1	9490 (30)	52-401	3720b-30	30
31	4705	3481	5898	51	9089e-1	9491 (31)	52-402	3720b-31	31
32	4706	3482	5899	52	9089f-1	9492 (32)	52-403	3720b-32	32
33	4707	3483	5900	53	9089g-1	9493 (33)	52-404	3720b-33	33
34	4708	3484	5901	54	9089h-1	9494 (34)	52-405	3720b-34	34
35	4709	3485	5902	55	9089i-1	9495 (35)	52-406	3720b-35	35
36	4709	3486	5903	56	9089j-1	9496 (36)	52-407	3720b-36	36
37	4710	3487	5904	57	9089k-1	9497 (37)	52-408	3720b-37	37
38	4711	3488	5905	58	9089l-1	9498 (38)	52-409	3720b-38	38
39	4712	3489	5906	59	9089m-1	9499 (39)	52-410	3720b-39	39
40	4713	3490	5907	60	9089n-1	9500 (40)	52-411	3720b-40	40
41	4714	3491	5908	61	9089o-1	9501 (41)	52-412	3720b-41	41
42	4715	3492	5909	62	9089p-1	9502 (42)	52-413	3720b-42	42
43	4716	3493	5910	63	9089q-1	9503 (43)	52-414	3720b-43	43
44	4717	3494	5911	64	9089r-1	9504 (44)	52-415	3720b-44	44
45	4718	3495	5912	65	9089s-1	9505 (45)	52-416	3720b-45	45
46	4719	3496	5913	66	9089t-1	9506 (46)	52-417	3720b-46	46
47	4720	3497	5914	67	9089u-1	9507 (47)	52-418	3720b-47	47
48	4721	3498	5915	68	9089v-1	9508 (48)	52-419	3720b-48	48
49	8722	3499	5916	69	9089w-1	9509 (49)	52-420	3720b-49	49
50	4723	3500	5917	70	9089x-1	9510 (50)	52-421	3720b-50	50

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Uniform Laws Sec.	Fla.	Hawaii	Idaho	Ill.	Ind.	Iowa	Kan.	Ky.	La.
	Rev. Stat. 1920	Rev. Laws 1915	Comp. Stat. 1919	Rev. Stat. 1921 Ch. 98	Burn's Stat. 1914	Code of 1924	Rev. Stat. 1923	Carroll's Stat. 1922	Laws 1904 Art. 64 Wolff's Stat. 1920 P. 159 etc.
51	4724	3501	5918	71	9089y-1	9511 (51)	52-501	3720b-51	51
52	4725	3502	5919	72	9089z-1	9512 (52)	52-502	3720b-52	52
53	4726	3503	5920	73	9089a-2	9513 (53)	52-503	3720b-53	53
54	4727	3504	5921	74	9089b-2	9514 (54)	62-504	3720b-54	54
55	4728	3505	5922	75	9089c-2	9515 (55)	52-505	3720b-55	55
56	4729	3506	5923	76	9089d-2	9516 (56)	52-506	3720b-56	56
57	4730	3507	5924	77	9089e-2	9517 (57)	52-507	3720b-57	57
58	4731	3508	5925	78	9089f-2	9518 (58)	52-508	3720b-58	58
59	4732	3509	5926	79	9089g-2	9519 (59)	52-509	3720b-59	59
60	4736	3510	5927	80	9089h-2	9520 (60)	52-601	3720b-60	60
61	4737	3511	5928	81	9089i-2	9521 (61)	52-602	3720b-61	61
62	4738	3512	5929	82	9089j-2	9522 (62)	52-603	3720b-62	62
63	4739	3513	5930	83	9089k-2	9523 (63)	52-604	3720b-63	63
64	4740	3514	5931	84	9089l-2	9524 (64)	52-605	3720b-64	64
65	4741	3515	5932	85	9089m-2	9525 (65)	52-606	3720b-65	65
66	4742	3516	5933	86	9089n-2	9526 (66)	52-607	3720b-66	66
67	4743	3517	5934	87	9089o-2	9527 (67)	52-608	3740b-67	67
68	4744	3518	5935	88	9089p-2	9528 (68)	52-609	3720b-68	68
69	4745	3519	5936	89	9089q-2	9529 (69)	52-610	3720b-69	69
70	4746	3520	5937	91	9089r-2	9530 (70)	52-701	3720b-70	70
71	4747-8	3521	5938	92	9089s-2	9531 (71)	52-702	3720b-71	71
72	4749	3522	5939	93	9089t-2	9532 (72)	52-703	3720b-72	72
73	4750	3523	5940	94	9089u-2	9533 (73)	52-704	3720b-73	73
74	4751	3524	5941	96	9089v-2	9534 (74)	52-705	3720b-74	74
75	4752	3525	5942	97	9089w-2	9535 (75)	52-706	3720b-75	75
76	4753	3526	5943	98	9089x-2	9536 (76)	52-707	3720b-76	76
77	4754	3527	5944	99	9089y-2	9537 (77)	52-708	3720b-77	77
78	4755	3528	5945	100	9089z-2	9538 (78)	52-709	3720b-78	78
79	4756	3529	5946	101	9089a-3	9539 (79)	52-710	3720b-79	79
80	4756	3530	5947	102	9089b-3	9540 (80)	52-711	3720b-80	80
81	4757	3531	5948	103	9089c-3	9541 (81)	52-712	3720b-81	81
82	4758	3532	5949	104	9089d-3	9542 (82)	52-713	3720b-82	82
83	4759	3533	5950	105	9089e-3	9543 (83)	52-714	3720b-83	83
84	4760	3534	5951	106	9089f-3	9544 (84)	52-715	3720b-84	84
85	4761	3535	5952	107	9089g-3	9546 (85)	52-716(o)	3720b-85	85
86	4761	3536	5953	108	9089h-3	9547 (86)	52-718	3720b-86	86
87	4762	3537	5954	Omit'd	9089i-3	9548 (87)	Omitted	3720b-87	87
88	4763	3538	5955	109	9089j-3	9549 (88)	52-719	3720b-88	88
89	4764	3539	5956	110	9089k-3	9550 (89)	52-801	3720b-89	89
90	4765	3540	5957	111	9089l-3	9551 (90)	52-802	3720b-90	90
91	4766	3541	5958	112	9089m-3	9552 (91)	52-803	3720b-91	91
92	4767	3542	5959	113	9089n-3	9553 (92)	52-804	3720b-92	92
93	4768	3543	5960	114	9089o-3	9554 (93)	52-805	3720b-93	93
94	4769	3544	5961	115	9089p-3	9555 (94)	52-806	3720b-94	94
95	4770	3545	5962	116	9089q-3	9556 (95)	52-807	3720b-95 (a)	95
96	4771	3546	5963	117	9089r-3	9557 (96)	52-808	3720b-96	96
97	4771	3547	5964	118	9089s-3	9558 (97)	52-809	3720b-97	97
98	4772	3548	5965	119	9089t-3	9559 (98)	52-810	3720b-98	98
99	4773	3549	5966	120	9089u-3	9560 (99)	52-811	3720b-99	99

UNIFORM NEGOTIABLE INSTRUMENTS ACT—Continued

Uniform Laws Sec.	Fla.	Hawaii	Idaho	Ill.	Ind.	Iowa	Kan.	Ky.	La.
	Rev. Stat. 1920	Rev. Laws 1915	Comp. Stat. 1919	Rev. Stat. 1921 Ch. 98	Burn's Stat. 1914	Code of 1924	Rev. Stat. 1923	Carroll's Stat. 1922	Laws 1904 Art. 64 Wolff's Stat. 1920 P. 159 etc.
100	4773	3550	5967	121	9089v-3	9561 (100)	52-812	3720b-100	100
101	4774	3551	5968	122	9089w-3	9562 (101)	52-813	3720b-101	101
102	4775	3552	5969	123	9089x-3	9563 (102)	52-814	3720b-102	102
103	4775	3553	5970	124	9089y-3	9564 (103)	52-815	3720b-103	103
104	4776	3554	5971	125	9089z-3	9565 (104)	52-816	3720b-104	104
105	4777	3555	5972	126	9089a-4	9566 (105)	52-817	3720b-105	105
106	4777	3556	5973	127	9089b-4	9567 (106)	52-818	3720b-106	106
107	4778	3557	5974	128	9089c-4	9568 (107)	52-819	3720b-107	107
108	4779	3558	5975	129	9089d-4	9569 (108)	52-820	3720b-108	108
109	4780	3559	5976	130	9089e-4	9570 (109)	52-821	3720b-109	109
110	4780	3560	5977	131	9089f-4	9571 (110)	52-822	3720b-110	110
111	4780	3561	5978	132	9089g-4	9572 (111)	52-823	3720b-111	111
112	4781	3562	5979	133	9089h-4	9573 (112)	52-824	3720b-112	112
113	4782	3563	5980	134	9089i-4	9574 (113)	52-825	3720b-113	113
114	4783	3564	5981	135	9089j-4	9575 (114)	52-826	3720b-114	114
115	4783	3565	5982	136	9089k-4	9576 (115)	52-827	3720b-115	115
116	4783	3566	5983	137	9089l-4	9577 (116)	52-828	3720b-116	116
117	4784	3567	5984	138	9089m-4	9578 (117)	52-829	3720b-117	117
118	4785	3568	5985	139	9089n-4	9579 (118)	82-830	3720b-118	118
119	4786	3569	5986	140	9089o-4	9580 (119)	52-901	3720b-119	119
120	4786	3570	5987	141	9089p-4	9581 (120)	52-902	3720b-120	120
121	4787	3571	5988	142	9089q-4	9582 (121)	52-903	3720b-121	121
122	4788	3572	5989	143	9089r-4	9583 (122)	52-904	3720b-122	122
123	4789	3573	5990	144	9089s-4	9584 (123)	52-905	3720b-123	123
124	4790	3574	5991	145	9089t-4	9585 (124)	52-906	3720b-124	124
125	4790	3575	5992	146	9089u-4	9586 (125)	52-907	3720b-125	125
126	4791	3576	5993	147	9089v-4	9587 (126)	51-1001	3720b-126	126
127	4791	3577	5994	148	9089w-4	9588 (127)	52-1002	3720b-127	127
128	4791	3578	5995	149	9089x-4	9589 (128)	52-1003	3720b-128	128
129	4792	3579	5996	150	9089y-4	9590 (129)	52-1004	3720b-129	129
130	4793	3580	5997	151	9089z-4	9591 (130)	52-1005	3720b-130	130
131	4794	3581	5998	152	9089a-5	9592 (131)	52-1006	3720b-131	131
132	4795	3582	5999	153	9089b-5	9593 (132)	52-1101	3720b-132	132
133	4795	3583	6000	154	9089c-5	9594 (133)	52-1102	3720b-133	133
134	4795	3584	6001	155	9089d-5	9595 (134)	52-1103	3720b-134	134
135	4796	3585	6002	156	9089e-5	9596 (135)	52-1104	3720b-135	135
136	4797	3586	6003	157	9089f-5	9597 (136)	52-1105	3720b-136	136
137	4798	3587	6004	Omit'd	9089g-5	9598 (137)	52-1106	3720b-137	137
138	4799	3588	6005	158-159	9089h-5	9599 (138)	52-1107	3720b-138	138
139	4800	3589	6006	160	9089i-5	9600 (139)	52-1108	3720b-139	139
140	4800	3590	6007	161	9089j-5	9601 (140)	52-1109	3720b-140	140
141	4800	3591	6008	162	9089k-5	9602 (141)	52-1110	3720b-141	141
142	4801	3592	6009	163	9089l-5	9603 (142)	52-1111	3720b-142	142
143	4802	3593	6010	164	9089m-5	9604 (143)	52-1201	3720b-143	143
144	4803	3594	6011	165	9089n-5	9605 (144)	52-1202	3720b-144	144
145	4804	3595	6012	166	9089o-5	9606 (145)	52-1203	3720b-145	145
146	4805	3596	6013	167	9089p-5	9607 (146)	52-1204	3720b-146	146
147	4806	3597	6014	168	9089q-5	9608 (147)	52-1205	3720b-147	147
148	4806	3598	6015	169	9089r-5	9609 (148)	52-1206	3720b-148	148

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Uniform Laws Sec.	Fla.	Hawaii	Idaho	Ill.	Ind.	Iowa	Kan.	Ky.	La.
	Rev. Stat. 1920	Rev. Laws 1915	Comp. Stat. 1919	Rev. Stat. 1921 Ch. 98	Burn's Stat. 1914	Code of 1924	Rev. Stat. 1923	Carroll's Stat. 1922	Laws 1904 Art. 64 Wolff's Stat. 1920 P. 159 etc.
149	4807	3599	6016	170	9089s-5	9610 (149)	25-1207	3720b-149	149
150	4807	3600	6017	171	9890t-5	9611 (150)	52-1208	3720b-150	150
151	4808	3601	6018	172	9089u-5	9612 (151)	52-1209	3720b-151	151
152	4809	3602	6019	173	9089v-5	9613 (152)	52-1301	3720b-152	152
153	4810	3603	6020	174	9089w-5	9614 (153)	52-1302	3720b-153	153
154	4810	3604	6021	175	9089x-5	9615 (154)	52-1303	3720b-154	154
155	4811	3605	6022	176	9089y-5	9616 (155)	52-1304	3720b-155	155
156	4811	3606	6023	177	9089z-5	9617 (156)	52-1305	3720b-156	156
157	4812	3607	6024	178	9089a-6	9618 (157)	52-1306	3720b-157	157
158	4813	3608	6025	179	9089b-6	9619 (158)	52-1307	3720b-158	158
159	4814	3609	6026	180	9089c-6	9620 (159)	52-1308	3720b-159	159
160	4815	3610	6027	181	9089d-6	9621 (160)	52-1309	3720b-160	160
161	4817	3611	6028	182	9089e-6	9622 (161)	52-1401	3720b-161	161
162	4818	3612	6029	183	9089f-6	9623 (162)	52-1402	3720b-162	162
163	4819	3613	6030	184	9089g-6	9624 (163)	52-1403	3720b-163	163
164	4820	3614	6031	185	9089h-6	9625 (164)	52-1404	3720b-164	164
165	4820	3615	6032	186	9089i-6	9626 (165)	52-1405	3720b-165	165
166	4821	3616	6033	187	9089j-6	9627 (166)	52-1406	3720b-166	166
167	4822	3617	6034	188	9089k-6	9628 (167)	52-1407	3720b-167	167
168	4823	3618	6035	189	9089l-6	9629 (168)	52-1408	3720b-168	168
169	4824	3619	6036	190	9089m-6	9630 (169)	52-1409	3720b-169	169
170	4825	3620	6037	191	9089n-6	9631 (170)	52-1410	3720b-170	170
171	4826	3621	6038	192	9089o-6	9632 (171)	52-1501	3720b-171	171
172	4826	3622	6039	193	9089p-6	9633 (172)	52-1502	3720b-172	172
173	4827	3623	6040	194	9089q-6	9634 (173)	52-1503	3720b-173	173
174	4828	3624	6041	195	9089r-6	9635 (174)	52-1504	3720b-174	174
175	4829	3625	6042	196	9089s-6	9636 (175)	52-1505	3720b-175	175
176	4830	3626	6043	197	9089t-6	9637 (176)	52-1506	3720b-176	176
177	4830	3627	6044	198	9089u-6	9638 (177)	52-1507	3720b-177	177
178	4831	3628	6045	199	9089v-6	9639 (178)	52-1601	3720b-178	178
179	4832	3629	6046	200	9089w-6	9640 (179)	52-1602	3720b-179	179
180	4833	3630	6047	201	9089x-6	9641 (180)	52-1603	3720b-180	180
181	4834	3631	6048	202	9089y-6	9642 (181)	52-1604	3720b-181	181
182	4835	3632	6049	203	9089z-6	9643 (182)	52-1605	3720b-182	182
183	4836	3633	6050	204	9089a-7	9644 (183)	52-1606	3720b-183	183
184	4837	3634	6051	205	9089b-7	9645 (184)	52-1701	3720b-184	184
185	4838	3635	6052	206	9089c-7	9646 (185)	52-1702	3720b-185	185
186	4839	3636	6053	207	9089d-7	9647 (186)	52-1703	3720b-186	186
187	4840	3637	6054	208	9089e-7	9648 (187)	52-1704	3720b-187	187
188	4841	3638	6055	209	9089f-7	9649 (188)	52-1705	3720b-188	188
189	4842	3639	6056	210	9089g-7	9650 (189)	52-1706	3720b-189	189
190	Om't'd	3640	6057	212	9089h-7	9651 (190)	52-101	Omitted	190
191	4674	3641	6058	213	9089i-7	9652 (191)	52-102	3720b-190	191
192	4674	3642	6059	214	9089j-7	9653 (192)	52-103	3720b-191	192
193	4674	3643	6060	215	9089k-7	9654 (193)	52-104	3720b-192	193
194	4674	3644	6061	216	9089l-7	9655 (194)	52-105	3720b-193	194
195	Om't'd	3645	Omit'd	217	9089m-7	9656 (195)	52-106	3720b-194	195
196	"	3646	6062	218	9089n-7	9657 (196)	52-107	Omitted	196
197	"	Omit'd	Omit'd	Omit'd	Omitted	Omitted	Omit'd	3720b-195	Omitted
198	"	"	"	"	"	"	"	Omitted	"

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Uniform Law Sec.	Me.	Md.	Mass.	Mich.	Minn.	Miss.	Mo.	Mont.	Neb.
	Laws 1917 Ch. 257	Bagby's Code Art. 13 Act 1898 Ch. 119	Gen'l. Laws 1921 Ch. 107	Comp. Laws 1915	Gen'l. Stat. 1913 G. S. 1923 7044— 7241	Hem'g- way's Code 1917	Rev. Stat. 1919	Rev. Code 1921 Laws 1903 Ch. 121	Comp. Stat. 1922 Laws 1905 Ch. 83
1	1	20	23	6042	5813	2579	788	8408	4612
2	2	21	24	6043	5814	2580	789	8409	4613
3	3	22	25	6044	5815	2581	790	8410	4614
4	4	23	26	6045	5816	2582	791	8411	4615
5	5	24	27	6046	5817	2583	792	8412	4616
6	6	25	28	6047	5818	2584	793	8413	4617
7	7	26	29	6048	5819	2585	794	8414	4618
8	8	27	30	6049	5820	2586	795	8415	4619
9	9	28	31	6050	5821	2587	796	8416	4620
10	10	29	32	6051	5822	2588	797	8417	4621
11	11	30	33	6052	5823	2589	798	8418	4622
12	12	31	34	6053	5824	2590	799	8419	4623
13	13	32	35	6054	5825	2591	800	8420	4624
14	14	33	36	6055	5826	2592	801	8421	4625
15	15	34	37	6056	5827	2593	802	8422	4626
16	16	35	38	6057	5828	2594	803	8423	4627
17	17	36	39	6058	5829	2596	804	8424	4628
18	18	37	40	6059	5830	2596	805	8425	4629
19	19	38	41	6060	5831	2597	806	8426	4630
20	20	39	42	6061	5832	2598	807	8427	4631
21	21	40	43	6062	5833	2599	808	8428	4632
22	22	41	44	6063	5834	2600	809	8429	4633
23	23	42	45	6064	5835	2601	810	8430	4634
24	24	43	47	6065	5836	2602	811	8431	4635
25	25	44	48	6066	5837	2603	812	8432	4636
26	26	45	49	6067	5838	2604	813	8433	4637
27	27	46	50	6068	5839	2605	814	8434	4638
28	28	47	51	6069	5840	2606	815	8435	4639
29	29	48	52	6070	5841	2607	816	8436	4640
30	30	49	53	6071	5842	2608	817	8437	4641
31	31	50	54	6072	5843	2609	818	8438	4642
32	32	51	55	6073	5844	2610	819	8439	4643
33	33	52	56	6074	5845	2611	820	8440	4644
34	34	53	57	6075	5846	2612	820	8441	4645
35	35	54	58	6076	5847	2613	821	8442	4646
36	36	55	59	6077	5848	2614	822	8443	4647
37	37	56	60	6078	5849	2615	823	8444	4648
38	38	57	61	6079	5850	2616	824	8445	4649
39	39	58	62	6080	5851	2617	825	8446	4650
40	40	59	63	6081	5852	2618	826	8447	4651
41	41	60	64	6082	5853	2619	827	8448	4652
42	42	61	65	6083	5854	2620	828	8449	4653
43	43	62	66	6084	5855	2621	829	8450	4654
44	44	63	67	6085	5856	2622	830	8451	4655
45	45	64	68	6086	5857	2623	831	8452	4656
46	46	65	69	6087	5858	2624	832	8453	4657
47	47	66	70	6088	5859	2625	833	8454	4658
48	48	67	71	6089	5860	2626	834	8455	4659
49	49	68	72	6090	5861	2627	835	8456	4660
50	50	69	73	6091	5862	2628	836	8457	4661

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Uniform Law Sec.	Me.	Md.	Mass.	Mich.	Minn.	Miss.	Mo.	Mont.	Neb.
	Laws 1917 Ch. 257	Bagby's Code Art. 13 Act 1898 Ch. 119	Gen'l. Laws 1921 Ch. 107	Comp. Laws 1915	Gen'l. Stat. 1913 G. S. 1923 7044- 7241	Heming- way's Code 1917	Rev. Stat. 1919	Rev. Code 1921 Laws 1903 Ch. 121	Comp. Stat. 1922 Laws 1905 Ch. 83
51	51	70	74	6092	5863	2629	837	8458	4662
52	52	71	75	6093	5864	2630	838	8459	4663
53	53	72	76	6094	5865	2631	839	8460	4664
54	54	73	77	6095	5866	2632	840	8461	4665
55	55	74	78	6096	5867	2633	841	8462	4666
56	56	75	79	6097	5868	2634	842	8463	4667
57	57	76	80	6098	5869	2635	843	8464	4668
58	58	77	81	6099	5870	2636	844	8465	4669
59	59	78	82	6100	5871	2637	845	8466	4670
60	60	79	83	6101	5872	2638	846	8467	4671
61	61	80	84	6102	5873	2639	847	8468	4672
62	62	81	85	6103	5874	2640	848	8469	4673
63	63	82	86	6104	5875	2641	849	8470	4674
64	64	83	87	6105	5876	2642	850	8471	4675
65	65	84	88	6106	5877	2643	851	8472	4676
66	66	85	89	6107	5878	2644	852	8473	4677
67	67	86	90	6108	5879	2645	853	8474	4678
68	68	87	91	6109	5880	2646	854	8475	4679
69	69	88	92	6110	5881	2647	855	8476	4680
70	70	89	93	6111	5882	2648	856	8477	4681
71	71	90	94	6112	5883	2649	857	8478	4682
72	72	91	95	6113	5884	2650	858	8479	4683
73	73	92	96	6114	5885	2651	859	8480	4684
74	74	93	97	6115	5886	2652	860	8481	4685
75	75	94	98	6116	5887	2653	861	8482	4686
76	76	95	99	6117	5888	2654	862	8483	4687
77	77	96	100	6118	5889	2655	863	8484	4688
78	78	97	101	6119	5890	2656	864	8485	4689
79	79	98	102	6120	5891	2657	865	8486	4690
80	80	99	103	6121	5892	2658	866	8487	4691
81	81	100	104	6122	5893	2659	867	8488	4692
82	82	101	105	6123	5894	2660	868	8489	4693
83	83	102	106	6124	5895	2661	869	8490	4694
84	84	103	107	6125	5896	2662	870	8491	4695
85	85	104	108	6126	5897	2663	871	8492	4696
86	86	105	109	6127	5898	2664	872	8493	4697
87	87	106	110	6128	5899	2665	873	8494	Omitted
88	88	107	111	6129	5900	2666	874	8495	4698
89	89	108	112	6130	5901	2667	875	8496	4699
90	90	109	113	6131	5902	2668	876	8497	4700
91	91	110	114	6132	5903	2669	877	8498	4701
92	92	111	115	6133	5904	2670	878	8499	4702
93	93	112	116	6134	5905	2671	879	8500	4703
94	94	113	117	6135	5906	2672	880	8501	4704
95	95	114	118	6136	5907	2673	881	8502	4705
96	96	115	119	6137	5908	2674	882	8503	4706
97	97	116	120	6138	5909	2675	883	8504	4707
98	98	117	121	6139	5910	2676	884	8505	4708
99	99	118	122	6140	5911	2677	885	8506	4709

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

Uniform Law Sec.	Me.	Md.	Mass.	Mich.	Minn.	Miss.	Mo.	Mont.	Neb.
	Laws 1917 Ch. 257	Bagby's Code Art. 13 Act 1898 Ch. 119	Gen'l. Laws 1921 Ch. 107	Comp. Laws 1915	Gen'l. Stat. 1913 G. S. 1923 7044— 7241	Heming- way's Code 1917	Rev. Stat. 1919	Rev. Code 1921 Laws 1903 Ch. 121	Comp. Stat. 1922 Laws 1905 Ch. 83
100	100	119	123	6141	5912	2678	886	8507	4710
101	101	120	124	6142	5913	2679	887	8508	4711
102	102	121	125	6143	5914	2680	888	8509	4712
103	103	122	126	6144	5915	2681	889	8510	4713
104	104	123	127	6145	5916	2682	890	8511	4714
105	105	124	128	6146	5917	2683	891	8512	4715
106	106	125	129	6147	5918	2684	892	8513	4716
107	107	126	130	6148	5919	2685	893	8514	4717
108	108	127	131	6149	5920	2686	894	8515	4718
109	109	128	132	6150	5921	2687	895	8516	4719
110	110	129	133	6151	5922	2688	896	8517	4720
111	111	130	134	6152	5923	2689	897	8518	4721
112	112	131	135	6153	5924	2690	898	8519	4722
113	113	132	136	6154	5925	2691	899	8520	4723
114	114	133	137	6155	5926	2692	900	8521	4724
115	115	134	138	6156	5927	2693	901	8522	4725
116	116	135	139	6157	5928	2694	902	8523	4726
117	117	136	140	6158	5929	2695	903	8524	4727
118	118	137	141	6159	5930	2696	904	8525	4728
119	119	138	142	6160	5931	2697	905	8526	4729
120	120	139	143	6161	5932	2698	906	8527	4730
121	121	140	144	6162	5933	2699	907	8528	4731
122	122	141	145	6163	5934	2700	908	8529	4732
123	123	142	146	6164	5935	2701	909	8530	4733
124	124	143	147	6165	5936	2702	910	8531	4734
125	125	144	148	6166	5937	2703	911	8532	4735
126	126	145	149	6167	5938	2704	912	8533	4736
127	127	146	150	6168	5939	2705	913	8534	4737
128	128	147	151	6169	5940	2706	914	8535	4738
129	129	148	152	6170	5941	2707	915	8536	4739
130	130	149	153	6171	5942	2708	916	8537	4740
131	131	150	154	6172	5943	2709	917	8538	4741
132	132	151	155	6173	5944	2710	918	8539	4742
133	133	152	156	6174	5945	2711	919	8540	4743
134	134	153	157	6175	5946	2712	920	8541	4744
135	135	154	158	6176	5947	2713	921	8542	4745
136	136	155	159	6177	5948	2714	922	8543	4746
137	137	156	160	6178	5949	2715	923	8544	4747
138	138	157	161	6179	5950	2716	924	8545	4748
139	139	158	162	6180	5951	2717	925	8546	4749
140	140	159	163	6181	5952	2718	926	8547	4750
141	141	160	164	6182	5953	2719	927	8548	4751
142	142	161	165	6183	5954	2720	928	8549	4752
143	143	162	166	6184	5955	2721	929	8550	4753
144	144	163	167	6185	5956	2722	930	8551	4754
145	145	164	168	6186	5957	2723	931	8552	4755
146	146	165	169	6187	5958	2724	932	8553	4756
147	147	166	170	6188	5959	2725	933	8554	4757
148	148	167	171	6189	5960	2726	934	8555	4758

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Concluded.*

Uniform Law Sec.	Me.	Md.	Mass.	Mich.	Minn.	Miss.	Mo.	Mont.	Neb.
	Laws 1917 Ch. 257	Bagby's Code Art. 13 Act 1898 Ch. 119	Gen'l. Laws 1921 Ch. 107	Comp. Laws 1915	Gen'l. Stat. 1913 G. S. 1923 7044— 7241	Heming- way's Code 1917	Rev. Stat. 1919	Rev. Code 1921 Laws 1903 Ch. 121	Comp. Stat. 1922 Laws 1905 Ch. 83
149	149	168	172	6190	5961	2727	935	8556	4759
150	150	169	173	6191	5962	2728	936	8557	4760
151	151	170	174	6192	5963	2729	937	8558	4761
152	152	171	175	6193	5964	2730	938	8559	4762
153	153	172	176	6194	5965	2731	939	8560	4763
154	154	173	177	6195	5966	2732	940	8561	4764
155	155	174	178	6196	5967	2733	941	8562	4765
156	156	175	179	6197	5968	2734	942	8563	4766
157	157	176	180	6198	5969	2735	943	8564	4767
158	158	177	181	6199	5970	2736	944	8565	4768
159	159	178	182	6200	5971	2737	945	8566	4769
160	160	179	183	6201	5972	2738	946	8567	4770
161	161	180	184	6202	5973	2739	947	8568	4771
162	162	181	185	6203	5974	2740	948	8569	4772
163	163	182	186	6204	5975	2741	949	8570	4773
164	164	183	187	6205	5976	2742	950	8571	4774
165	165	184	188	6206	5977	2743	951	8572	4775
166	166	185	189	6207	5978	2744	952	8573	4776
167	167	186	190	6208	5979	2745	953	8574	4777
168	168	187	191	6209	5980	2746	954	8575	4778
169	169	188	192	6210	5981	2747	955	8576	4779
170	170	189	193	6211	5982	2748	956	8577	4780
171	171	190	194	6212	5983	2749	957	8578	4781
172	172	191	195	6213	5984	2750	958	8579	4782
173	173	192	196	6214	5985	2751	959	8580	4783
174	174	193	197	6215	5986	2752	960	8581	4784
175	175	194	198	6216	5987	2753	961	8582	4785
176	176	195	199	6217	5988	2754	962	8583	4786
177	177	196	200	6218	5989	2755	963	8584	4787
178	178	197	201	6219	5990	2756	964	8585	4788
179	179	198	202	6220	5991	2757	965	8586	4789
180	180	199	203	6221	5992	2758	966	8587	4790
181	181	200	204	6222	5993	2759	967	8588	4791
182	182	201	205	6223	5994	2760	968	8589	4792
183	183	202	206	6224	5995	2761	969	8590	4793
184	184	203	207	6225	5996	2762	970	8591	4794
185	185	204	208	6226	5997	2763	971	8592	4795
186	186	205	209	6227	5998	2764	972	8593	4796
187	187	206	210	6228	5999	2765	973	8594	4797
188	188	207	211	6229	6000	2766	974	8595	4798
189	189	208	212	6230	6001	2767	975	8596	4799
190	190	13	Omitted	6040	6002	2768	Omitted	8597	Omitted
191	191	14	18	6041	6003	2769	980	8598	4800
192	192	15	19	6041	6004	2770	981	8599	4801
193	193	16	20	6041	6005	2771	982	8600	4802
194	194	17	21	6041	6006	2772	983	8601	4803
195	195	18	Omitted	6041	6007	2773	984	8602	Omitted
196	196	19	22	6041	6008	2774	985	8603	4804
197	197	Omitted	Omitted	6231	6009	Omitted	Omitted	Omitted	Omitted
198	Omitted	"	"	Omitted	Omitted	"	"	"	"

UNIFORM NEGOTIABLE INSTRUMENTS ACT

Uniform Law Sec.	Nev.	N. J.	N. H.	N. M.	N. Y.	N. C.	N. D.	Ohio	Okl.
	Rev. Laws 1912 1907 Ch. 62	N. J. P. L. 1902 p. 583 Comp. Stat. 1910 p. 3734 etc.	Laws 1909 Ch. 122 Pub. Stat. 1913 Supp. p. 482 etc.	Codification 1915 Laws 1907 Ch. 83	Negotiable Instruments Act	Laws 1899 Ch. 733 Sec. 1-198 Consol. Stat. 1919	Laws 1899 Ch. 113 Secs. 1-198 Comp. Laws 1913	Gen. Code 1910 p. 1717	Comp. Stat. 1921
1	2548	1	1	595	20	2982	6886	8106	7671
2	2549	2	2	596	21	2983	6887	8107	7672
3	2550	3	3	597	22	2984	6888	8108	7673
4	2551	4	4	598	23	2985	6889	8109	7674
5	2552	5	5	599	24	2986	6890	8110	7675
6	2553	6	6	600	25	2987	6891	8111	7676
7	2554	7	7	601	26	2988	6892	8112	7677
8	2555	8	8	602	27	2989	6893	8113	7678
9	2556	9	9	603	28	2990	6894	8114	7679
10	2557	10	10	604	29	2991	6895	8115	7680
11	2558	11	11	605	30	2992	6896	8116	7681
12	2559	12	12	606	31	2993	6897	8117	7682
13	2560	13	13	607	32	2994	6898	8118	7683
14	2561	14	14	608	33	2995	6899	8119	7684
15	2562	15	15	609	34	2996	6900	8120	7685
16	2563	16	16	610	35	2997	6901	8121	7686
17	2564	17	17	611	36	2998	6902	8122	7687
18	2565	18	18	612	37	2999	6903	8123	7688
19	2566	19	19	613	38	3000	6904	8124	7689
20	2567	20	20	614	39	3001	6905	8125	7690
21	2568	21	21	615	40	3002	6906	8126	7691
22	2569	22	22	616	41	3012	6907	8127	7692
23	2570	23	23	617	42	3003	6908	8128	7693
24	2571	24	24	618	50	3004	6909	8129	7694
25	2572	25	25	619	51	3005	6910	8130	7695
26	2573	26	26	620	52	3006	6911	8131	7696
27	2574	27	27	621	53	3007	6912	8132	7697
28	2575	28	28	622	54	3008	6913	8133	7698
29	2576	29	29	623	55	3009	6914	8134	7699
30	2577	30	30	624	60	3010	6915	8135	7700
31	2578	31	31	625	61	3011	6916	8136	7701
32	2579	32	32	626	62	3013	6917	8137	7702
33	2580	33	33	627	63	3014	6918	8138	7703
34	2581	34	34	628	64	3015	6919	8139	7704
35	2582	35	35	629	65	3016	6920	8140	7705
36	2583	36	36	630	66	3017	6921	8141	7706
37	2584	37	37	631	67	3018	6922	8142	7707
38	2585	38	38	632	68	3019	6923	8143	7708
39	2586	39	39	633	69	3020	6924	8144	7709
40	2587	40	40	634	70	3021	6925	8145	7710
41	2588	41	41	635	71	3022	6926	8146	7711
42	2589	42	42	636	72	3023	6927	8147	7712
43	2590	43	43	637	73	3024	6928	8148	7713
44	2591	44	44	638	74	3025	6929	8149	7714
45	2592	45	45	639	75	3026	6930	8150	7715
46	2593	46	46	640	76	3027	6931	8151	7716
47	2594	47	47	641	77	3028	6932	8152	7717
48	2595	48	48	642	78	3029	6933	8153	7718
49	2596	49	49	643	79	3030	6934	8154	7719
50	2597	50	50	644	80	3031	6935	8155	7720

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

Uniform Law Sec.	Nev.	N. J.	N. H.	N. M.	N. Y.	N. C.	N. D.	Ohio	Okla.
	Rev. Laws 1912 Laws 1907 Ch. 62	N. J. P. L. 1902 P. 583 Comp. Stat. 1910 P. 3734 etc.	Laws 1909 Ch. 122 Pub. Stat. 1913 Supp. P. 482 etc.	Codifi- cation 1915 Laws 1907 Ch. 83	Negoti- able Instru- ments Act	Laws 1899 Ch. 733 Sec. 1— 198 Consol. Stat. 1919	Laws 1899 Ch. 113 Secs. 1— 198 Comp. Laws 1913	Gen. Code 1910 P. 1717	Comp. Stat. 1921
51	2598	51	51	645	90	3032	6936	8156	7721
52	2599	52	52	646	91	3033	6937	8157	7722
53	2600	53	53	647	92	3034	6938	8158	7723
54	2601	54	54	648	93	3035	6939	8159	7724
55	2602	55	55	649	94	3036	6940	8160	7725
56	2603	56	56	650	95	3037	6941	8161	7726
57	2604	57	57	651	96	3038	6942	8162	7727
58	2605	58	58	652	97	3039	6943	8163	7728
59	2606	59	59	653	98	3040	6944	8164	7729
60	2607	60	60	654	110	3041	6945	8165	7730
61	2608	61	61	655	111	3042	6946	8166	7731
62	2609	62	62	656	112	3043	6947	8167	7732
63	2610	63	63	657	113	3044	6948	8168	7733
64	2611	64	64	658	114	3045	6949	8169	7734
65	2612	65	65	659	115	3046	6950	8170	7735
66	2613	66	66	660	116	3047	6951	8171	7737
67	2614	67	67	661	117	3048	6952	8172	7736
68	2615	68	68	662	118	3049	6953	8173	7738
69	2616	69	69	663	119	3050	6954	8174	7739
70	2617	70	70	664	130	3051	6955	8175	7740
71	2618	71	71	665	131	3052	6956	8176	7741
72	2619	72	72	666	132	3053	6957	8177	7742
73	2620	73	73	667	133	3054	6958	8178	7743
74	2621	74	74	668	134	3055	6959	8179	7744
75	2622	75	75	669	135	3056	6960	8180	7745
76	2623	76	76	670	136	3057	6961	8181	7746
77	2624	77	77	671	137	3058	6962	8182	7747
78	2625	78	78	672	138	3059	6963	8183	7748
79	2626	79	79	673	139	3060	6964	8184	7749
80	2627	80	80	674	140	3061	6965	8185	7750
81	2628	81	81	675	141	3062	6966	8186	7751
82	2629	82	82	676	142	3063	6967	8187	7752
83	2630	83	83	677	143	3064	6968	8188	7753
84	2631	84	84	678	144	3065	6969	8189	7754
85	2632	85	85	679	145	3066	6970	8190	7755
86	2633	86	86	680	146	3068	6971	8191	7756
87	2634	87	87	681	147	3569	6972	8192	7757
88	2635	88	88	682	148	3070	6973	8193	7758
89	2636	89	89	683	160	3071	6974	8194	7759
90	2637	90	90	684	161	3072	6975	8195	7760
91	2638	91	91	685	162	3073	6976	8196	7761
92	2639	92	92	686	163	3074	6977	8197	7762
93	2640	93	93	687	164	3075	6978	8198	7763
94	2641	94	94	688	165	3076	6979	8199	7764
95	2642	95	95	689	166	3077	6980	8200	7765
96	2643	96	96	690	167	3078	6981	8201	7766
97	2644	97	97	691	168	3079	6982	8202	7767
98	2645	98	98	692	169	3080	6983	8203	7768
99	2646	99	99	693	170	3081	6984	8204	7769

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

Uniform Law Sec.	Nev.	N. J.	N. H.	N. M.	N. Y.	N. C.	N. D.	Ohio	Okla.
	Rev. Laws 1912 1907 Ch. 62	N. J. P. L. 1902 P. 583 Comp. Stat. 1910 P. 3734 etc.	Laws 1909 Ch. 122 Pub. Stat. 1913 Supp. P. 482 etc.	Codification 1915 Laws 1907 Ch. 83	Negotiable Instruments Act	Laws 1899 Ch. 733 Secs. 1-198 Consol. Stat. 1919	Laws 1899 Ch. 113 Secs. 1-198 Comp. Laws 1913	Gen. Code 1910 P. 1717	Comp. Stat. 1921
100	2647	100	100	694	171	3082	6985	8205	7770
101	2648	101	101	695	172	3083	6986	8206	7771
102	2649	102	102	696	173	3084	6987	8207	7772
103	2650	103	103	697	174	3085	6988	8208	7773
104	2651	104	104	698	175	3086	6989	8209	7774
105	2652	105	105	699	176	3087	6990	8210	7775
106	2653	106	106	700	177	3088	6991	8211	7776
107	2654	107	107	701	178	3089	6992	8212	7777
108	2655	108	108	702	179	3090	6993	8213	7778
109	2656	109	109	703	180	3091	6994	8214	7779
110	2657	110	110	704	181	3092	6995	8215	7780
111	2658	111	111	705	182	3093	6996	8216	7781
112	2659	112	112	706	183	3094	6997	8217	7782
113	2660	113	113	707	184	3095	6998	8218	7783
114	2661	114	114	708	185	3096	6999	8219	7784
115	2662	115	115	709	186	3097	7000	8220	7785
116	2663	116	116	710	187	3098	7001	8221	7786
117	2664	117	117	711	188	3099	7002	8222	7787
118	2665	118	118	712	189	3100	7003	8223	7788
119	2666	119	119	713	200	3101	7004	8224	7789
120	2667	120	120	714	201	3102	7005	8225	7790
121	2668	121	121	715	202	3103	7006	8226	7791
122	2669	122	122	716	203	3104	7007	8227	7792
123	2670	123	123	717	204	3105	7008	8228	7793
124	2671	124	124	718	205	3106	7009	8229	7794
125	2672	125	125	719	206	3107	7010	8230	7795
126	2673	126	126	720	210	3108	7011	8231	7796
127	2674	127	127	721	211	3109	7012	8232	7797
128	2675	128	128	722	212	3110	7013	8233	7798
129	2676	129	129	723	213	3111	7014	8234	7799
130	2677	130	130	724	214	3112	7015	8235	7800
131	2678	131	131	725	215	3113	7016	8236	7801
132	2679	132	132	726	220	3114	7017	9237	7802
133	2680	133	133	727	221	3115	7018	8238	7803
134	2681	134	134	728	222	3116	7019	8239	7804
135	2682	135	135	729	223	3117	7020	8240	7805
136	2683	136	136	730	224	3118	7021	8241	7806
137	2684	137	137	731	225	3119	7022	8242	7807
138	2685	138	138	732	226	3120	7023	8243	7808
139	2686	139	139	733	227	3121	7024	8244	7809
140	2687	140	140	734	228	3122	7025	8245	7810
141	2688	141	141	735	229	3123	7026	8246	7811
142	2689	142	142	736	230	3124	7027	8247	7812
143	2690	143	143	737	240	3125	7028	8248	7813
144	2691	144	144	738	241	3126	7029	8249	7814
145	2692	145	145	739	242	3127	7030	8250	7815
146	2693	146	146	740	243	3128	7031	8251	7816
147	2694	147	147	741	244	3129	7032	8252	7817
148	2695	148	148	742	245	3130	7033	8253	7818

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Concluded.*

Uniform Law Sec.	Nev.	N. J.	N. H.	N. M.	N. Y.	N. C.	N. D.	Ohio	Okla.
	Rev. Laws 1912 Laws 1907 Ch. 62	N. J. P. L. 1902 P. 583 Comp. Stat. 1910 P. 3734 etc.	Laws 1909 Ch. 122 Pub. Stat. 1913 Supp. P. 482 etc.	Codification 1915 Laws 1907 Ch. 83	Negotiable Instruments Act	Laws 1899 Ch. 733 Secs. 1-198 Consol. Stat. 1919	Laws 1899 Ch. 113 Secs. 1-198 Comp. Laws 1913	Gen. Code 1910 P. 1717	Comp. Stat. 1921
149	2696	149	149	743	246	3131	7033-a	8254	7819
150	2697	150	150	744	247	3132	7034	8255	7830
151	2698	151	151	745	248	3133	7035	8256	7821
152	2699	152	152	746	260	3134	7036	8257	7822
153	2700	153	153	747	261	3135	7037	8258	7823
154	2701	154	154	748	262	3136	7038	8259	7824
155	2702	155	155	749	263	3137	7049	8260	7825
156	2703	156	156	750	264	3138	7040	8261	7826
157	2704	157	157	751	265	3139	7041	8262	7827
158	2705	158	158	752	266	3140	7042	8263	7828
159	2706	159	159	753	267	3141	7043	8264	7829
160	2707	160	160	754	268	3142	7044	8265	7830
161	2708	161	161	755	280	3143	7045	8266	7831
162	2709	162	162	756	281	3144	7046	8267	7832
163	2710	163	163	757	282	3145	7047	8268	7833
164	2711	164	164	758	283	3146	7048	8269	7834
165	2712	165	165	759	284	3147	7049	8270	7835
166	2713	166	166	760	285	3148	7050	8271	7836
167	2714	167	167	761	286	3149	7051	8272	7837
168	2715	168	168	762	287	3150	7052	8273	7838
169	2716	169	169	763	288	3151	7053	8274	7839
170	2717	170	170	764	289	3152	7054	8275	7840
171	2718	171	171	765	300	3153	7055	8276	7841
172	2719	172	172	766	301	3154	7056	8277	7842
173	2720	173	173	767	302	3155	7057	8278	7843
174	2721	174	174	768	303	3156	7058	8279	7874
175	2722	175	175	769	304	3157	7059	8280	7845
176	2723	176	176	770	305	3158	7060	8281	7846
177	2724	177	177	771	306	3159	7061	8282	7847
178	2725	178	178	772	310	3160	7062	8283	7848
179	2726	179	179	773	311	3161	7063	8284	7849
180	2727	180	180	774	312	3162	7064	8285	7850
181	2728	181	181	775	313	3163	7065	8286	7851
182	2729	182	182	776	314	3164	7066	8287	7852
183	2730	183	183	777	315	3165	7067	8288	7853
184	2731	184	184	778	320	3166	7068	8289	7854
185	2732	185	185	779	321	3167	7069	8290	7855
186	2733	186	186	780	322	3168	7070	8291	7856
187	2734	187	187	781	323	3169	7071	8292	7857
188	2735	188	188	782	324	3170	7072	8293	7858
189	2736	189	189	783	325	3171	7073	8294	7859
190	2737	190	Omitted	784	1	Omitted	7074	Omitted	7664
191	2738	191	190	785	2	2976	7075	8295	7665
192	2739	192	191	786	3	2977	7076	8296	7666
193	2740	193	192	787	4	2978	7077	8297	7667
194	2741	194	193	788	5	2980	7078	8298	7668
195	2742	195	194	789	6	2981	7079	8299	7669
196	2743	196	195	790	7	2979	7080	8300	7670
197	Omitted	197	196	Omitted	340	Omitted	Omitted	Omitted	Omitted
198	"	198	196	"	341	"	"	"	"

UNIFORM NEGOTIABLE INSTRUMENTS ACT

Uniform Law Sec.	Ore.	Pa.	P. I.	R. I.	S. C.	S. D.	Tenn.
	Oregon Laws 1924	Pamphlet Laws 1901 No. 162 Pa. Stat. 1920 Secs. 15982- 16195	Act 2031	General Laws of Rhode Island Revision of 1923	Laws 1914 No. 396 P. 668 Code Sec. 3652-3847	Rev. Code 1919 Laws 1913 Ch. 279	Shannon's Code Laws 1899 Ch. 94
1	7793	1	1	(3012) 7	3652-1	1705	3516a-9
2	7794	2	2	(3013) 8	3653-2	1706	3516a-10
3	7795	3	3	(3014) 9	3654-3	1707	3516a-11
4	7796	4	4	(3015) 10	3655-4	1708	3516a-12
5	7797	5	5	(3016) 11	3656-5	1709	3516a-13
6	7798	6	6	(3017) 12	3657-6	1710	3516a-14
7	7799	7	7	(3018) 13	3658-7	1711	3516a-15
8	7800	8	8	(3019) 14	3659-8	1712	3516a-16
9	7801	9	9	(3020) 15	3660-9	1713	3516a-17
10	7802	10	10	(3021) 16	3661-10	1714	3516a-18
11	7803	11	11	(3022) 17	3662-11	1715	3516a-19
12	7804	12	12	(3023) 18	3663-12	1716	3516a-20
13	7805	13	13	(3024) 19	3664-13	1717	3516a-21
14	7806	14	14	(3025) 20	3665-14	1718	3516a-22
15	7807	15	15	(3026) 21	3666-15	1719	3516a-23
16	7808	16	16	(3027) 22	3667-16	1720	3516a-24
17	7809	17	17	(3028) 23	3668-17	1721	3516a-25
18	7810	18	18	(3029) 24	3669-18	1722	3516a-26
19	7811	19	19	(3030) 25	3670-19	1723	3516a-27
20	7812	20	20	(3031) 26	3671-20	1724	3516a-28
21	7813	21	21	(3032) 27	3672-21	1725	3516a-29
22	7814	22	22	(3033) 28	3673-22	1726	3516a-30
23	7815	23	23	(3034) 29	3674-23	1727	3516a-31
24	7816	24	24	(3035) 30	3675-24	1728	3516a-32
25	7817	25	25	(3036) 31	3676-25	1729	3516a-33
26	7818	26	26	(3037) 32	3677-26	1730	3516a-34
27	7819	27	27	(3038) 33	3678-27	1731	3516a-35
28	7820	28	28	(3039) 34	3679-28	1732	3516a-36
29	7821	29	29	(3040) 35	3680-29	1733	3516a-37
30	7822	30	30	(3041) 36	3681-30	1734	3516a-38
31	7823	31	31	(3042) 37	3682-31	1735	3516a-39
32	7824	32	32	(3043) 38	3683-32	1736	3516a-40
33	7825	33	33	(3044) 39	3684-33	1737	3516a-41
34	7826	34	34	(3045) 40	3685-34	1738	3516a-42
35	7827	35	35	(3046) 41	3686-35	1739	3516a-43
36	7828	36	36	(3047) 42	3687-36	1740	3516a-44
37	7829	37	37	(3048) 43	3688-37	1741	3516a-45
38	7830	38	38	(3049) 44	3689-38	1742	3516a-46
39	7831	39	39	(3050) 45	3690-39	1743	3516a-47
40	7832	40	40	(3051) 46	3691-40	1744	3516a-48
41	7833	41	41	(3052) 47	3692-41	1745	3516a-49
42	7834	42	42	(3053) 48	3693-42	1746	3516a-50
43	7835	43	43	(3054) 49	3694-43	1747	3516a-51
44	7836	44	44	(3055) 50	3695-44	1748	3516a-52
45	7837	45	45	(3056) 51	3696-45	1749	3516a-53
46	7838	46	46	(3057) 52	3697-46	1750	3516a-54
47	7839	47	47	(3058) 53	3698-47	1751	3516a-55
48	7840	48	48	(3059) 54	3699-48	1752	3516a-56
49	7841	49	49	(3060) 55	3700-49	1753	3516a-57
50	7842	50	50	(3061) 56	3701-50	1754	3516a-58

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

Uniform Law Sec.	Ore.	Pa.	P. I.	R. I.	S. C.	S. D.	Tenn.
	Oregon Laws 1924	Pamphlet Laws 1901 No. 162 Pa. Stat. 1920 Recs. 15982- 16195	Act 2031	General Laws of Rhode Island Revision of 1923	Laws 1914 No. 396 P. 668 Code Sec. 3652-3847	Rev. Code 1919 Laws 1913 Ch. 279	Shannon's: Code Laws 1899 Ch. 94
51	7843	51	51	(3062) 57	3702-51	1755	3516a-59
52	7844	52	52	(3063) 58	3703-52	1756	3516a-60
53	7845	53	53	(3064) 59	3704-53	1757	3516a-61
54	7846	54	54	(3065) 60	3705-54	1758	3516a-62
55	7847	55	55	(3066) 61	3706-55	1759	3516a-63
56	7848	56	56	(3067) 62	3707-56	1760	3516a-64
57	7849	57	57	(3068) 63	3708-57	1761	3516a-65
58	7850	58	58	(3069) 64	3709-58	1762	3516a-66
59	7851	59	59	(3070) 65	3710-59	1763	3516a-67
60	7852	60	60	(3071) 66	3711-60	1764	3516a-68
61	7853	61	61	(3072) 67	3712-61	1765	3516a-69
62	7854	62	62	(3073) 68	3713-62	1766	3516a-70
63	7855	63	63	(3074) 69	3714-63	1767	3516a-71
64	7856	64	64	(3075) 70	3715-64	1768	3516a-72
65	7857	65	65	(3076) 71	3716-65	1769	3516a-73
66	7858	66	66	(3077) 72	3717-66	1770	3516a-74
67	7859	67	67	(3078) 73	3718-67	1771	3516a-75
68	7860	68	68	(3079) 74	3719-68	1772	3516a-76
69	7861	69	69	(3080) 75	3720-69	1773	3516a-77
70	7862	70	70	(3081) 76	3721-70	1774	3516a-78
71	7863	71	71	(3082) 77	3722-71	1775	3516a-79
72	7864	72	72	(3083) 78	3723-72	1776	3516a-80
73	7865	73	73	(3084) 79	3724-73	1777	3516a-81
74	7866	74	74	(3085) 80	3725-74	1778	3516a-82
75	7867	75	75	(3086) 81	3726-75	1779	3516a-83
76	7868	76	76	(3087) 82	3727-76	1780	3516a-84
77	7869	77	77	(3088) 83	3728-77	1781	3516a-85
78	7870	78	78	(3089) 84	3729-78	1782	3516a-86
79	7871	79	79	(3090) 85	3730-79	1783	3516a-87
80	7872	80	80	(3091) 86	3731-80	1784	3516a-88
81	7873	81	81	(3092) 87	3732-81	1785	3516a-89
82	7874	82	82	(3093) 88	3733-82	1786	3516a-90
83	7875	83	83	(3094) 89	3734-83	1787	3516a-91
84	7876	84	84	(3095) 90	3735-84	1788	3516a-92
85	7877	85	85	(3096) 91(ad)	3736-85	1789	3516a-93
86	7878	86	86	(3097) 92	3737-86	1790	3516a-94
87	7879	87	87	(3098) 93	3738-87	Omitted	3516a-95
88	7880	88	88	(3099) 94	3739-88	1791	3516a-96
89	7881	89	89	(3100) 95	3740-89	1792	3516a-97
90	7882	90	90	(3101) 96	3741-90	1793	3516a-98
91	7883	91	91	(3102) 97	3742-91	1794	3516a-99
92	7884	92	92	(3103) 98	3743-92	1795	3516a-100
93	7885	93	93	(3104) 99	3744-93	1796	3516a-101
94	7886	94	94	(3105) 100	3745-94	1797	3516a-102
95	7887	95	95	(3106) 101	3746-95	1798	3516a-103
96	7888	96	96	(3107) 102	3747-96	1799	3516a-104
97	7889	97	97	(3108) 103	3748-97	1800	3516a-105
98	7890	98	98	(3109) 104	3749-98	1801	3516a-106
99	7891	99	99	(3110) 105	3750-99	1802	3516a-107

(ad) Addition to original section.

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

Uniform Law Sec.	Ore.	Pa.	P. I.	R. I.	S. C.	S. D.	Tenn.
	Oregon Laws 1924	Pamphlet Laws 1901 No. 162 Pa. Stat. 1920 Recs. 15982- 16195	Act 2031	General Laws of Rhode Island, Revision of 1923	Laws 1914 No. 396 P. 668 Code, Sec. 3652-3847	Rev. Code 1919 Laws 1913 Ch. 279	Shannon's Code Laws 1899 Ch. 94
100	7892	100	100	(3111) 106	3751-100	1803	3516a-108
101	7893	101	101	(3112) 107	3752-101	1804	3516a-109
102	7894	102	102	(3113) 108	3753-102	1805	3516a-110
103	7895	103	103	(3114) 109	3754-103	1806	3516a-111
104	7896	104	104	(3115) 110	3755-104	1807	3516a-112
105	7897	105	105	(3116) 111	3756-105	1808	3516a-113
106	7898	106	106	(3117) 112	3757-106	1809	3516a-114
107	7899	107	107	(3118) 113	3758-107	1810	3516a-115
108	7900	108	108	(3119) 114	3759-108	1811	3516a-116
109	7901	109	109	(3120) 115	3760-109	1812	3516a-117
110	7902	110	110	(3121) 116	3761-110	1813	3516a-118
111	7903	111	111	(3122) 117	3762-111	1814	3516a-119
112	7904	112	112	(3123) 118	3763-112	1815	3516a-120
113	7905	113	113	(3124) 119	3764-113	1816	3516a-121
114	7906	114	114	(3125) 120	3765-114	1817	3516a-122
115	7907	115	115	(3126) 121	3766-115	1818	3516a-123
116	7908	116	116	(3127) 122	3767-116	1819	3516a-124
117	7909	117	117	(3128) 123	3768-117	1820	3516a-125
118	7910	118	118	(3129) 124	3769-118	1821	3516a-126
119	7911	119	119	(3130) 125	3770-119	1822	3516a-127
120	7912	120	120	(3131) 126	3771-120	1823	3516a-128
121	7913	121	121	(3132) 127	3772-121	1824	3516a-129
122	7914	122	122	(3133) 128	3773-122	1825	3516a-130
123	7915	123	123	(3134) 129	3774-123	1826	3516a-131
124	7916	124	124	(3135) 130	3775-124	1827	3516a-132
125	7917	125	125	(3136) 131	3776-125	1828	3516a-133
126	7918	126	126	(3137) 132	3777-126	1829	3516a-134
127	7919	127	127	(3138) 133	3778-127	1830	3516a-135
128	7920	128	128	(3139) 134	3779-128	1831	3516a-136
129	7921	129	129	(3140) 135	3780-129	1832	3516a-137
130	7922	130	130	(3141) 136	3781-130	1833	3516a-138
131	7923	131	131	(3142) 137	3782-131	1834	3516a-139
132	7924	132	132	(3143) 138	3783-132	1835	3516a-140
133	7925	133	133	(3144) 139	3784-133	1836	3516a-141
134	7926	134	134	(3145) 140	3785-134	1837	3516a-142
135	7927	135	135	(3146) 141	3786-135	1838	3516a-143
136	7928	136	136	(3147) 142	3787-136	1839	3516a-144
137	7929	137	137	(3148) 143	3788-137	Omitted	3516a-145
138	7930	138	138	(3149) 144	3789-138	1840	3516a-146
139	7931	139	139	(3150) 145	3790-139	1841	3516a-147
140	7932	140	140	(3151) 146	3791-140	1842	3516a-148
141	7933	141	141	(3152) 147	3792-141	1843	3516a-149
142	7934	142	142	(3153) 148	3793-142	1844	3516a-150
143	7935	143	143	(3154) 149	3794-143	1845	3516a-151
144	7936	144	144	(3155) 150	3795-144	1846	3516a-152
145	7937	145	145	(3156) 151	3796-145	1847	3516a-153
146	7938	146	146	(3157) 152	3797-146	1848	3516a-154
147	7939	147	147	(3158) 153	3798-147	1849	3516a-155
148	7940	148	148	(3159) 154	3799-148	1850	3516a-156
149	7941	149	149	(3160) 155	3800-149	1851	3516a-157

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	Oregon Laws 1924	Pamphlet Laws 1901 No. 162 Pa. Stat. 1920 Recs. 15982- 16195	Act 2031	General Laws of Rhode Island, Revision of 1923	Laws 1914 No. 396 P. 668 Code, Sec. 3652-3847	Rev. Code 1919 Laws 1913 Ch. 279	Shannon's Code Laws 1899 Ch. 94
150	7942	150	150	(3161) 156	3801-150	1852	3516a-158
151	7943	151	151	(3162) 157	3802-151	1853	3516a-159
152	7944	152	152	(3163) 158	3803-152	1854	3516a-160
153	7945	153	153	(3164) 159	3804-153	1855	3516a-161
154	7946	154	154	(3165) 160	3805-154	1856	3516a-162
155	7947	155	155	(3166) 161	3806-155	1857	3516a-163
156	7948	156	156	(3167) 162	3807-156	1858	3516a-164
157	7949	157	157	(3168) 163	3808-157	1859	3516a-165
158	7950	158	158	(3169) 164	3809-158	1860	3516a-166
159	7951	159	159	(3170) 165	3810-159	1861	3516a-167
160	7952	160	160	(3171) 166	3811-160	1862	3516a-168
161	7953	161	161	(3172) 167	3812-161	1863	3516a-169
162	7954	162	162	(3173) 168	3813-162	1864	3516a-170
163	7955	163	163	(3174) 169	3814-163	1865	3516a-171
164	7956	164	164	(3175) 170	3815-164	1866	3516a-172
165	7957	165	165	(3176) 171	3816-165	1867	3516a-173
166	7958	166	166	(3177) 172	3817-166	1868	3516a-174
167	7959	167	167	(3178) 173	3818-167	1869	3516a-175
168	7960	168	168	(3179) 174	3819-168	1870	3516a-176
169	7961	169	169	(3180) 175	3820-169	1871	3516a-177
170	7962	170	170	(3181) 176	3821-170	1872	3516a-178
171	7963	171	171	(3182) 177	3822-171	1873	3516a-179
172	7964	172	172	(3183) 178	3823-172	1874	3516a-180
173	7965	173	173	(3184) 179	3824-173	1875	3516a-181
174	7966	174	174	(3185) 180	3825-174	1876	3516a-182
175	7967	175	175	(3186) 181	3826-175	1877	3516a-183
176	7968	176	176	(3187) 182	3827-176	1878	3516a-184
177	7969	177	177	(3188) 183	3828-177	1879	3516a-185
178	7970	178	178	(3189) 184	3829-178	1880	3516a-186
179	7971	179	179	(3190) 185	3830-179	1881	3516a-187
180	7972	180	180	(3191) 186	3831-180	1882	3516a-188
181	7973	181	181	(3192) 187	3832-181	1883	3516a-189
182	7974	182	182	(3193) 188	3833-182	1884	3516a-190
183	7975	183	183	(3194) 189	3834-183	1885	3516a-191
184	7976	184	184	(3195) 190	3835-184	1886	3516a-192
185	7977	185	185	(3196) 191	3836-185	1887	3516a-193
186	7978	186	186	(3197) 192	3837-186	1888	3516a-194
187	7979	187	187	(3198) 193	3838-187	1889	3516a-195
188	7980	188	188	(3199) 194	3839-188	1890	3516a-196
189	7981	189	189	(3200) 195	3840-189	1891	3516a-197
190	7982	190	190	Omitted	3841-190	Omitted	3516a-2
191	7982	191	191	(3006) 1	3842-191	1892	3516a-3
192	7982	192	192	(3007) 2	3843-192	1893	3516a-4
193	7982	193	193	(3008) 3	3844-193	1894	3516a-5
194	7982	194	194	(3009) 4	3845-194	Omitted	3516a-6
195	7983	195	195	(3010) 5	3846-195	1897	3516a-7
196	7984	196	196 (c)	(3011) 6	3847-196	Omitted	3516a-8
197	Omitted	197	197 (c)	Omitted	Omitted	"	Omitted
198	"	198	198	"	"	"	"

(c) Changed.

UNIFORM NEGOTIABLE INSTRUMENTS ACT

	Texas	Utah	Vt.	Va.	Wash.	W. Va.	Wis.	Wyo.
Uni- form Law Sec.	Laws 1919 Ch. 123 Vern. Stat. 1922 Supp.	Comp. Laws of Utah 1917 Title 72	Gen'l Laws 1917 Ch. 140	Ann. Code 1924	Comp. Stat. 1922	Barnes Code of W. Va. 1923 Ch. 98a	Stat. 1923	Comp. Stat. 1920
1	6001-1	4030	2871	5563 (1)	3392	1	116.02	3934
2	6001-2	4031	2872	5564 (2)	3393	2	116.06	3935
3	6001-3	4032	2873	5565 (3)	3394	3	116.07	3936
4	6001-4	4033	2874	5566 (4)	3395	4	116.08	3937
5	6001-5	4034	2875	5567 (5)	3396	5	116.09	3938
6	6001-6	4035	2876	5568 (6)	3397	6	116.10	3939
7	6001-7	4036	2877	5569 (7)	3398	7	116.11	3940
8	6001-8	4037	2878	5570 (8)	3399	8	116.12	3941
9	6001-9	4038	2879	5571 (9)	3400	9	116.13	3942
10	6001-10	4039	2880	5572 (10)	3401	10	116.14	3943
11	6001-11	4040	2881	5573 (11)	3402	11	116.15	3944
12	6001-12	4041	2882	5574 (12)	3403	12	116.16	3945
13	6001-13	4042	2883	5575 (13)	3404	13	116.17	3946
14	6001-14	4043	2884	5576 (14)	3405	14	116.18	3947
15	6001-15	4044	2885	5577 (15)	3406	15	116.19	3948
16	6001-16	4045	2886	5578 (16)	3407	16	116.20	3949
17	6001-17	4046	2887	5579 (17)	3408	17	116.21	3950
18	6001-18	4047	2888	5580 (18)	3409	18	116.22	3951
19	6001-19	4048	2889	5581 (19)	3410	19	116.23	3952
20	6001-20	4049	2890	5582 (20)	3411	20	116.24	3953
21	6001-21	4050	2891	5583 (21)	3412	21	116.25	3954
22	6001-22	4051	2892	5584 (22)	3413	22	116.26	3955
23	6001-23	4052	2893	5585 (23)	3414	23	116.27	3956
24	6001-24	4053	2894	5586 (24)	3415	24	116.29	3957
25	6001-25	4054	2895	5587 (25)	3416	25	116.30	3958
26	6001-26	4055	2896	5588 (26)	3417	26	116.31	3959
27	6001-27	4056	2897	5589 (27)	3418	27	116.32	3960
28	6001-28	4057	2898	5590 (28)	3419	28	116.33	3961
29	6001-29	4058	2899	5591 (29)	3420	29	116.34	3962
30	6001-30	4059	2900	5592 (30)	3421	30	116.35	3963
31	6001-31	4060	2901	5593 (31)	3422	31	116.36	3964
32	6001-32	4061	2902	5594 (32)	3423	32	116.37	3965
33	6001-33	4062	2903	5595 (33)	3424	33	116.38	3966
34	6001-34	4063	2904	5596 (34)	3425	34	116.39	3967
35	6001-35	4064	Omitted	5597 (35)	3426	35	116.40	3968
36	6001-36	4065	2905	5598 (36)	3427	36	116.41	3969
37	6001-37	4066	2906	5599 (37)	3428	37	116.42	3970
38	6001-38	4067	2907	5600 (38)	3429	38	116.43	3971
39	6001-39	4068	2908	5601 (39)	3430	39	116.44	3972
40	6001-40	4069	2909	5602 (40)	3431	40	116.45	3973
41	6001-41	4070	2910	5603 (41)	3432	41	116.46	3974
42	6001-42	4071	2911	5604 (42)	3433	42	116.47	3975
43	6001-43	4072	2912	5605 (43)	3434	43	116.48	3976
44	6001-44	4073	2913	5606 (44)	3435	44	116.49	3977
45	6001-45	4074	2914	5607 (45)	3436	45	116.50	3978
46	6001-46	4075	2915	5608 (46)	3437	46	116.51	3979
47	6001-47	4076	2916	5609 (47)	3438	47	116.52	3980
48	6001-48	4077	2917	5610 (48)	3439	48	116.53	3981
49	6001-49	4078	2918	5611 (49)	3440	49	116.54	3982
50	6001-50	4079	2919	5612 (50)	3441	50	116.55	3983

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Continued.*

	Texas	Utah	Vt.	Va.	Wash.	W. Va.	Wis.	Wyo.
Uni- form Law Sec.	Laws 1919 Ch. 123 Vern. Stat. 1922 Supp.	Comp. Laws of Utah 1917 Title 72	Gen'l Laws 1917 Ch. 140	Ann. Code 1924	Comp. Stat. 1922	Barnes Code of W. Va. 1923 Ch. 98a	Stat. 1923	Comp. Stat. 1920
51	6001-51	4085	2920	5613 (51)	3442	51	116.56	3984
52	6001-52	4086	2921	5614 (52)	3443	52	116.57	3985
53	6001-53	4087	2922	5615 (53)	3444	53	116.58	3986
54	6001-54	4088	2923	5616 (54)	3445	54	116.59	3987
55	6001-55	4089	2924	5617 (55)	3446	55	116.60	3988
56	6001-56	4090	2925	5618 (56)	3447	56	116.61	3989
57	6001-57	4091	2926	5619 (57)	3448	57	116.62	3990
58	6001-58	4092	2927	5620 (58)	3449	58	116.63	3991
59	6001-59	4093	2928	5621 (59)	3450	59	116.64	3992
60	6001-60	4094	2929	5622 (60)	3451	60	116.65	3993
61	6001-61	4095	2930	5623 (61)	3452	61	116.66	3994
62	6001-62	4096	2931	5624 (62)	3453	62	116.67	3995
63	6001-63	4097	2932	5625 (63)	3454	63	116.68	3996
64	6001-64	4098	2933	5626 (64)	3455	64	116.69	3997
65	6001-65	4099	2934	5627 (65)	3456	65	116.70	3998
66	6001-66	4100	2935	5628 (66)	3457	66	116.71	3999
67	6001-67	4101	2936	5629 (67)	3458	67	116.72	4000
68	6001-68	4102	2937	5630 (68)	3459	68	116.73	4001
69	6001-69	4103	2938	5631 (69)	3460	69	116.74	4002
70	6001-70	4105	2939	5632 (70)	3461	70	116.75	4003
71	6001-71	4106	2940	5633 (71)	3462	17	116.76	4004
72	6001-72	4107	2941	5634 (72)	3463	72	116.77	4005
73	6001-73	4108	2942	5635 (73)	3464	73	116.78	4006
74	6001-74	4109	2943	5636 (74)	3465	74	116.79	4007
75	6001-75	4110	2944	5637 (75)	3466	75	116.80	4008
76	6001-76	4111	2945	5638 (76)	3467	76	116.81	4009
77	6001-77	4112	2946	5639 (77)	3468	77	116.82	4010
78	6001-78	4113	2947	5640 (78)	3469	78	116.83	4011
79	6001-79	4114	2948	5641 (79)	3470	79	116.84	4012
80	6001-80	4115	2949	5642 (80)	3471	80	116.85	4013
81	6001-81	4116	2950	5643 (81)	3472	81	116.86	4014
82	6001-82	4117	2951	5644 (82)	3473	82	116.87	4015
83	6001-83	4118	2952	5645 (83)	3474	83	117.01	4016
84	6001-84	4119	2953	5646 (84)	3475	84	117.02	4017
85	6001-85	4120	2954	5647 (85)	3475½	85	117.03(o)	4018
86	6001-86	4121	2955	5648 (86)	3476	86	117.04	4019
87	6001-87	4122	2956	5649 (87)	3477	87	117.05	4020
88	6001-88	4123	2957	5650 (88)	3478	88	117.06	4021
89	6001-89	4125	2958	5651 (89)	3479	89	117.07	4022
90	6001-90	4126	2959	5652 (90)	3480	90	117.08	4023
91	6001-91	4127	2960	5653 (91)	3481	91	117.09	4024
92	6001-92	4128	2961	5654 (92)	3482	92	117.10	4025
93	6001-93	4129	2962	5655 (93)	3483	93	117.11	4026
94	6001-94	4130	2963	5656 (94)	3484	94	117.12	4027
95	6001-95	4131	2964	5657 (95)	3485	95	117.14	4028
96	6001-96	4132	2965	5658 (96)	3486	96	117.13	4029
97	6001-97	4133	2966	5659 (97)	3487	97	117.15	4030
98	6001-98	4134	2967	5660 (98)	3488	98	117.16	4031
99	6001-99	4135	2968	5661 (99)	3489	99	117.17	4032

UNIFORM NEGOTIABLE INSTRUMENTS ACT—Continued.

	Texas	Utah	Vt.	Va.	Wash.	W. Va.	Wis.	Wyo.
Uni- form Law Sec.	Laws 1919 Ch. 123 Vern. Stat., 1922 Supp.	Comp. Laws of Utah 1917 Title 72	Gen'l Laws 1917 Ch. 140	Ann. Code 1924	Comp. Stat. 1922	Barnes Code of W. Va. 1923 Ch. 98a	Stat. 1923	Comp. Stat. 1920
100	6001-100	4136	2969	5662 (100)	3490	100	117.18	4033
101	6001-101	4137	2970	5663 (101)	3491	101	117.19	4034
102	6001-102	4138	2971	5664 (102)	3492	102	117.20	4035
103	6001-103	4139	2972	5665 (103)	3493	103	117.21	4036
104	6001-104	4140	2973	5666 (104)	3494	104	117.22	4037
105	6001-105	4141	2974	5667 (105)	3495	105	117.23	4038
106	6001-106	4142	2975	5668 (106)	3496	106	117.24	4039
107	6001-107	4143	2976	5669 (107)	3497	107	117.25	4040
108	6001-108	4144	2977	5670 (108)	3498	108	117.26	4041
109	6001-109	4145	2978	5671 (109)	3499	109	117.27	4042
110	6001-110	4146	2979	5672 (110)	3500	110	117.28	4043
111	6001-111	4147	2980	5673 (111)	3501	111	117.29	4044
112	6001-112	4148	2981	5674 (112)	3502	112	117.30	4045
113	6001-113	4149	2982	5675 (113)	3503	113	117.31	4046
114	6001-114	4150	2983	5676 (114)	3504	114	117.32	4047
115	6001-115	4151	2984	5677 (115)	3505	115	117.33	4048
116	6001-116	4152	2985	5678 (116)	3506	116	117.34	4049
117	6001-117	4153	2986	5679 (117)	3507	117	117.35	4050
118	6001-118	4154	2987	5680 (118)	3508	118	117.36	4051
119	6001-119	4155	2988	5681 (119)	3509	119	117.37	4052
120	6001-120	4156	2989	5682 (120)	3510	120	117.38	4053
121	6001-121	4157	2990	5683 (121)	3511	121	117.39	4054
122	6001-122	4158	2991	5684 (122)	3512	122	117.40	4055
123	6001-123	4159	2992	5685 (123)	3513	123	117.41	4056
124	6001-124	4160	2993	5686 (124)	3514	124	117.42	4057
125	6001-125	4161	2994	5687 (125)	3515	125	117.43	4058
126	6001-126	4165	2995	5688 (126)	3516	126	118.01	4059
127	6001-127	4166	2996	5689 (127)	3517	127	118.02	4060
128	6001-128	4167	2997	5690 (128)	3518	128	118.03	4061
129	6001-129	4168	2998	5691 (129)	3519	129	118.04	4062
130	6001-130	4169	2999	5692 (130)	3520	130	118.05	4063
131	6001-131	4170	3000	5693 (131)	3521	131	118.06	4064
132	6001-132	4171	3001	5694 (132)	3522	132	118.07	4065
133	6001-133	4172	3002	5695 (133)	3523	133	118.08	4066
134	6001-134	4173	3003	5696 (134)	3524	134	118.09	4067
135	6001-135	4174	3004	5697 (135)	3525	135	118.10	4068
136	6001-136	4175	3005	5698 (136)	3526	136	118.11	4069
137	6001-137	4176	3006	5699 (137)	3527	137	118.12	4070
138	6001-138	4177	3007	5700 (138)	3528	138	118.13	4071
139	6001-139	4178	3008	5701 (139)	3529	139	118.14	4072
140	6001-140	4179	3009	5702 (140)	3530	140	118.15	4073
141	6001-141	4180	3010	5703 (141)	3531	141	118.16	4074
142	6001-142	4181	3011	5704 (142)	3532	142	118.17	4075
143	6001-143	4182	3012	5705 (143)	3533	143	118.18	4076
144	6001-144	4183	3013	5706 (144)	3534	144	118.19	4077
145	6001-145	4184	3014	5707 (145)	3535	145	118.20	4078
146	6001-146	4185	3015	5708 (146)	3536	146	118.21	4079
147	6001-147	4186	3016	5709 (147)	3537	147	118.22	4080
148	6001-148	4187	3017	5710 (148)	3538	148	118.23	4081
149	6001-149	4188	3018	5711 (149)	3539	149	118.24	4082

UNIFORM NEGOTIABLE INSTRUMENTS ACT—*Concluded.*

Uni- form Law Sec.	Texas	Utah	Vt.	Va.	Wash.	W. Va.	Wis.	Wyo.
	Laws 1919 Ch. 123 Vern. Stat., 1922 Supp.	Comp. Laws of Utah 1917 Title 72	Gen'l Laws 1917 Ch. 140	Ann. Code 1924	Comp. Stat. 1922	Barnes Code of W. Va. 1923 Ch. 98a	Stat. 1923	Comp. Stat. 1920
150	6001-150	4189	3019	5712 (150)	3540	150	118.25	4083
151	6001-151	4190	3020	5713 (151)	3541	151	118.26	4084
152	6001-152	4191	3021	5714 (152)	3542	152	118.27	4085
153	6001-153	4192	3022	5715 (153)	3543	153	118.28	4086
154	6001-154	4193	3023	5716 (154)	3544	154	118.29	4087
155	6001-155	4194	3024	5717 (155)	3545	155	118.30	4088
156	6001-156	4195	3025	5718 (156)	3546	156	118.31	4089
157	6001-157	4196	3026	5719 (157)	3547	157	118.32	4090
158	6001-158	4197	3027	5720 (158)	3548	158	118.33	4091
159	6001-159	4198	3028	5721 (159)	3549	159	118.34	4092
160	6001-160	4199	3029	5722 (160)	3550	160	118.35	4093
161	6001-161	4200	3030	5723 (161)	3551	161	118.36	4094
162	6001-162	4201	3031	5724 (162)	3552	162	118.37	4095
163	6001-163	4202	3032	5725 (163)	3553	163	118.38	4096
164	6001-164	4203	3033	5726 (164)	3554	164	118.39	4097
165	6001-165	4204	3034	5727 (165)	3555	165	118.40	4098
166	6001-166	4205	3035	5728 (166)	3556	166	118.41	4099
167	6001-167	4206	3036	5729 (167)	3557	167	118.42	4100
168	6001-168	4207	3037	5730 (168)	3558	168	118.43	4101
169	6001-169	4208	3038	5731 (169)	3559	169	118.44	4102
170	6001-170	4209	3039	5732 (170)	3560	170	118.45	4103
171	6001-171	4210	3040	5733 (171)	3561	171	118.46	4104
172	6001-172	4211	3041	5734 (172)	3562	172	118.47	4105
173	6001-173	4212	3042	5735 (173)	3563	173	118.48	4106
174	6001-174	4213	3043	5736 (174)	3564	174	118.49	4107
175	6001-175	4214	3044	5737 (175)	3565	175	118.50	4108
176	6001-176	4215	3045	5738 (176)	3566	176	118.51	4109
177	6001-177	4216	3046	5739 (177)	3567	177	118.52	4110
178	6001-178	4217	3047	5740 (178)	3568	178	118.53	4111
179	6001-179	4218	3048	5741 (179)	3569	179	118.54	4112
180	6001-180	4219	3049	5742 (180)	3570	180	118.55	4113
181	6001-181	4220	3050	5743 (181)	3571	181	118.56	4114
182	6001-182	4221	3051	5744 (182)	3572	182	118.57	4115
183	6001-183	4222	3052	5745 (183)	3573	183	118.58	4116
184	6001-184	4223	3053	5746 (184)	3574	184	118.58	4117
185	6001-185	4224	3054	5747 (185)	3575	185	118.61	4118
186	6001-186	4225	3055	5748 (186)	3576	186	118.62	4119
187	6001-187	4226	3056	5749 (187)	3577	187	118.63	4120
188	6001-188	4227	3057	5750 (188)	3578	188	118.64	4121
189	6001-189	4228	3058	5751 (189)	3579	189	118.65	4122
190	6001-190	4229	Omitted	Omitted	3580	190	Omitted	4123
191	6001-191	4230	2867	5752 (190)	3581	191	116.01	4124
192	6001-192	4231	2868	5753 (191)	3582	192	116.01	4125
193	6001-193	4232	2869	5754 (192)	3583	193	116.01	4126
194	6001-194	4233	2870	5755 (193)	3584	194	116.01	4127
195	6001-195	4234	3059	5756 (194)	3585	195	116.01	4128
196	6001-196	4235	3060	5757 (195)	3586	196	116.01	4129
197	6001-197	Omitted	Omitted	Omitted	Omitted	197	118.67	Omitted
198	Omitted	"	"	"	"	198	Omitted	"

(ad) Addition to original section.

(c) Changed.

(a) Amended.

(o) Part of section omitted.

Mississippi; Secs. 197, 198 omitted, but remain in Laws 1916, Ch. 244.

Missouri; sec. 787 is the title of original act.

New Sections:—Delaware, 2841, 2842; Florida, 4816, 4843; Kansas, 717; Iowa, 9545; Wisconsin, 116.03, 116.04, 116.05, 116.28, 116.59, 116.60.

UNIFORM PARTNERSHIP ACT

	Ill.	Idaho	Md.	Mass.	Minn.	Mich.	N. J.	N. Y.
Uni- form Law Sec.	Rev. Stat. 1923 Ch.106a	Comp. Stat. 1919	Code Art. 73A. Act 1916 Ch. 175	Stat. 1922 Ch. 486	Laws 1921 Ch. 487	Comp. Laws 1922 Supp.	Pamphlet Laws 1919 Chaps. 211, 212, p. 481	Partner- ship Law
1.....	1	5813	1	1	1	7966-1	1	1
2.....	2	5814	2	2	2	7966-2	2	2
3.....	3	5815	3	3	3	7966-3	3	3
4.....	4	5816	4	4	4	7966-4	4	4
5.....	5	5817	5	5	5	7966-5	5	5
6.....	6	5818	6	6	6	7966-6	6	10
7.....	7	5819	7	7	7	7966-7	7	11
8.....	8	5820	8	8	8	7966-8	8	12
9.....	9	5821	9	9	9	7966-9	9	20
10.....	10	5822	10	10	10	7966-10	10	21
11.....	11	5823	11	11	11	7966-11	11	22
12.....	12	5824	12	12	12	7966-12	12	23
13.....	13	5825	13	13	13	7966-13	13	24
14.....	14	5826	14	14	14	7966-14	14	25
15.....	15	5827	15	15	15	7966-15	15	26
16.....	16	5828	16	16	16	7966-16	16	27
17.....	17	5829	17	17	17	7966-17	17	28
18.....	18	5830	18	18	18	7966-18	18	40
19.....	19	5831	19	19	19	7966-19	19	41
20.....	20	5832	20	20	20	7966-20	20	42
21.....	21	5833	21	21	21	7966-21	21	43
22.....	22	5834	22	22	22	7966-22	22	44
23.....	32	5835	23	23	23	7966-23	23	45
24.....	24	5836	24	24	24	7966-24	24	50
25.....	25	5837	25	25	25	7966-25	25	51
26.....	26	5838	26	26	26	7966-26	26	52
27.....	27	5839	27	27	27	7966-27	27	53
28.....	28	5840	28	28	28	7966-28	28	54
29.....	29	5841	29	29	29	7966-29	29	60
30.....	30	5842	30	30	30	7966-30	30	61
31.....	31	5843	31	31	31	7966-31	31	62
32.....	32	5844	32	32	32	7966-32	32	63
33.....	33	5845	33	33	33	7966-33	33	64
34.....	34	5846	34	34	34	7966-34	34	65
35.....	35	5847	35	35	35	7966-35	35	66
36.....	36	5848	36	36	36	7966-36	36	67
37.....	37	5849	37	37	37	7966-37	37	68
38.....	38	5850	38	38	38	7966-38	38	69
39.....	39	5851	39	39	39	7966-39	39	70
40.....	40	5852	40	40	40	7966-40	40	71
41.....	41	5853	41	41	41	7966-41	41	72
42.....	42	5854	42	42	42	7966-42	42	73
43.....	43	5855	43	43	43	7966-43	43	74
44.....	44	Omitted	Omitted	44	44	Omitted	44	Omitted
45.....	Omitted	"	"	45	45	7966-44	45	"

(a) Addition.

UNIFORM PARTNERSHIP ACT

	Pa.	S. D.	Tenn.	Utah	Va.	Wis.	Wyo.	Alaska
Uni- form Law Sec.	Pamph- let Laws 1915 Page 18	Laws 1923 Ch. 296	Laws 1917 Ch. 140 Shan- non's Ann. Code Secs. 3141b1- 3141b42	Laws 1921 Ch. 89	Code 1924	Stats. 1923	Comp. Stat. 1920	Laws 1917 Ch. 69 P. 159
1.....	1	1	1	1	4359-(1)	123.01	4172	1
2.....	2	2	2	2	4359-(2)	123.01	4173	2
3.....	3	3	3	3	4359-(3)	123.01	4174	3
4.....	4	4	4	4	4359-(4)	123.02	4175	4
5.....	5	5	5	5	4359-(5)	Omitted	4176	5
6.....	6	6	6	6	4359-(6)	123.03	4177	6
7.....	7	7	7	7	4359-(7)	123.04	4178	7
8.....	8	8	8	8	4359-(8)	123.05	4179	8
9.....	9	9	9	9	4359-(9)	123.06	4180	9
10.....	10	10	10	10	4359-(10)	123.07	4181	10
11.....	11	11	11	11	4359-(11)	123.08	4182	11
12.....	12	12	12	12	4359-(12)	123.09	4183	12
13.....	13	13	13	13	4359-(13)	123.10	4184	13
14.....	14	14	14	14	4359-(14)	123.11	4185	14
15.....	15	15	15	15	4359-(15)	123.12	4186	15
16.....	16	16	16	16	4359-(16)	123.13	4187	16
17.....	17	17	17	17	4359-(17)	123.14	4188	17
18.....	18	18	18	18	4359-(18)	123.15	4189	18
19.....	19	19	19	19	4359-(19)	Omitted	4190	19
20.....	20	20	20	20	4359-(20)	123.17	4191	20
21.....	21	21	21	21	4359-(21)	123.18	4192	21
22.....	22	22	22	22	4359-(22)	123.19	4193	22
23.....	23	23	23	23	4359-(23)	123.20	4194	23
24.....	24	24	24	24	4359-(24)	123.21	4195	24
25.....	25	25	25	25	4359-(25)	123.21	4196	25
26.....	26	26	26	26	4359-(26)	123.22	4197	26
27.....	27	27	27	27	4359-(27)	123.23	4198	27
28.....	28	28	28	28	4359-(28)	123.24	4199	28
29.....	29	29	29	29	4359-(29)	123.25	4200	29
30.....	30	30	30	30	4359-(30)	123.25	4201	30
31.....	31	31	31	31	4359-(31)	123.26	4202	31
32.....	32	32	32	32	4359-(32)	123.27	4203	32
33.....	33	33	33	33	4359-(33)	123.28	4204	33
34.....	34	34	34	34	4359-(34)	123.29	4205	34
35.....	35	35	35	35	4359-(35)	123.30	4206	35
36.....	36	36	36	36	4359-(36)	123.31	4207	36
37.....	37	37	37	37	4359-(37)	123.32	4208	37
38.....	38	38	38	38	4359-(38)	123.33	4209	38
39.....	39	39	39	39	4359-(39)	123.34	4210	39
40.....	40	40	40	40	4359-(40)	123.35	4211	40
41.....	41	41	41	41	4359-(41)	123.36	4212	41
42.....	42	42	42	42	4359-(42)	123.37	4213	42
43.....	43	43	43	43	4359-(43)	123.38	4214	43
44.....	44	44	44	44	4359-(44)	Omitted	Omitted	44
45.....	45 (a)	45	45	45	4359-(45)	"	"	45

(a) Amended

UNIFORM PROOF OF STATUTES ACT

Uniform Law Sec.	Alaska	Ariz.	La.	Mich.	Nev.	Pa.	Tenn.
	Laws 1923 Ch. 4	Session Laws 1921 Ch. 2	Act 62 of 1922	Comp. Laws 1922 Supp.	Laws 1921 Ch. 77	Pamphlet Laws 1921 Page 373	Laws of 1923 Ch. 6
1....	1	1	1	12549 (1)	1	1	1
2....	2	2	2	12549 (2)	2	2	2
3....	3	3	3	12549 (3)	3	3	3
4....	4	4	4	12549 (4)	4	4	4
5....	5	5	Omitted	Omitted	5	Omitted	5

UNIFORM SALES ACT

Uniform Law Sec.	Ariz.	Conn.	Ill.	Idaho	Iowa	Me.	Md.	Mass.	Mich.
	Civil Code	Gen'l Stat. 1918	Rev. Stats. 1923 Ch. 121a	Comp. Stat. 1919	Code 1924	Laws 1923 Ch. 191	Code Art. 83 Act 1910 Ch. 346	Laws 1908 Ch. 237 Gen'l Laws 1921 Ch. 106	Comp. Laws 1915
1	5149	4668	4	5673	9930	1	22	1	11832
2	5150	4669	5	5674	9931	2	23	2	11833
3	5152	4670	6	5675	9932	3	24	3	11834
4	5153	6131	7	5676	9933(c)	4	25 (c)	4	11835
5	5154	4671	8	5677	9934	5	26	5	11836
6	5155	4672	9	5678	9935	6	27	6	11837
7	5156	4673	10	5679	9936	7	28	7	11838
8	5157	4674	11	5680	9937	8	29	8	11839
9	5158	4675	12	5681	9938	9	30	9	11840
10	5159	4676	13	5682	9939	10	31	10	11841
11	5160	4677	14	5683	9940	11	32	11	11842
12	5161	4678	15	5684	9941	12	33	12	11843
13	5162	4679	16	5685	9942	13	34	13	11844
14	5163	4680	17	5686	9943	14	35	14	11845
15	5164	4681	18	5687	9944	15	36	15	11846
16	5165	4682	19	5688	9945	16	37	16	11847
17	5166	4683	20	5689	9946	17	38	17	11848
18	5167	4684	21	5690	9947	18	39	18	11849
19	5168	4685	22	5691	9948	19	40	19	11850
20	5169	4686	23	5692	9949	20	41	20	11851
21	5170	4687	24	5693	9950	21	42	21	11852
22	5171	4688	25	5694	9951	22	43	22	11853
23	5172	4689	26	5695	9952	23	44	23	11854
24	5173	4690	27	5696	9953	24	45	24	11855
25	5174	4691	28	5697	9954	25	46	25	11856
26	5175	4692	29	5698	9955	26	47	26	11857
27	5176	4693	30	5699	9956	27	48	27	11858
28	5177	4694	31	5700	9957	28	49	28	11859
29	5178	4695	32	5701	9958	29	50	29	11860
30	5179	4696	33	5702	9959	30	51	30	11861
31	5180	4697	34	5703	9960	31	52	31	11862
32	5182	4698	35	5704	9961(c)	32	53	32	11863
33	5183	4699	36	5705	9962	33	54	33	11864
34	5184	4700	37	5706	9963	34	55	34	11865
35	5185	4701	38	5707	9964	35	56	35	11866
36	5186	4702	39	5708	9965	36	57	36	11867
37	5187	4703	40	5709	9966	37	58	37	11868
38	5188	4704	41	5710	9967	38	59	38	11869
39	5189	4705	42	5711	9968	39	60	39	11870
40	5190	4706	43	5712	9969	40	61	40	11871

(c) Changed slightly.

UNIFORM SALES ACT—*Concluded*

Uniform Law Sec.	Ariz.	Conn.	Ill.	Idaho	Iowa	Me.	Md.	Mass.	Mich.
	Civil Code	Gen'l Stat. 1918	Rev. Stats. 1923 Ch.121a	Comp. Stat. 1919	Code 1924	Laws 1923 Ch. 191	Code Art. 83 Act 1910 Ch. 346	Laws 1908 Ch. 237 Gen'l Laws 1921 Ch. 106	Comp. Laws 1915
41	5191	4707	44	5713	9970	41	62	41	11872
42	5192	4708	45	5714	9971	42	63	42	11873
43	5193	4709	46	5715	9972	43	64	43	11874
44	5194	4710	47	5716	9973	44	65	44	11875
45	5195	4711	48	5717	9974	45	66	45	11876
46	5196	4712	49	5718	9975	46	67	46	11877
47	5197	4713	50	5719	9976	47	68	47	11878
48	5198	4714	51	5720	9977	48	69	48	11879
49	5199	4715	52	5721	9978	49	70	49	11880
50	5200	4716	53	5722	9979	50	71	50	11881
51	5201	4717	54	5723	9980	51	72	51	11882
52	5202	4718	55	5724	9981	52	73	52	11883
53	5203	4719	56	5725	9982	53	74	53	11884
54	5204	4720	57	5726	9983	54	75	54	11885
55	5205	4721	58	5727	9984	55	76	55	11886
56	5206	4722	59	5728	9985	56	77	56	11887
57	5207	4723	60	5729	9986	57	78	57	11888
58	5208	4724	61	5730	9987	58	79	58	11889
59	5209	4725	62	5731	9988	59	80	59	11890
60	5210	4726	63	5732	9989	60	81	60	11891
61	5211	4727	64	5733	9990	61	82	61	11892
62	5212	4728	65	5734	9991	62	83	62	11893
63	5213	4729	66	5735	9992	63	84	63	11894
64	5214	4730	67	5736	9993	64	85	64	11895
65	5215	4731	68	5737	9994	65	86	65	11896
66	5216	4732	69	5738	9995	66	87	66	11897
67	5217	4733	70	5739	9996	67	88	67	11898
68	5218	4734	71	5740	9997	68	89	68	11899
69	5219	4735	72	5741	9998	69	90	69	11900
70	5220	4736	73	5742	9999	70	91	70	11901
71	5221	4737	74	5743	10000	71	92	71	11902
72	5222	4738	75	5744	10001	72	93	72	11903
73	5223	4739	76	5745	10002	73	94	73	11904
74	5224	4740	77	5746	10003	74	95	74	11905
75	5225	4741	78	5747	10004	75	96	75	11906
76	5226	4742	79	5748	10005	76	97	76	11907
76a	5227	Omitted	80	5749	10006	77	98	76a	11908
76b	5228	"	81	5750	10007	78	Omitted	76b	11909(c)
77	5229	"	Omitted	5751	Omitted	79	"	77	11910
78	5230	"	"	Omitted	"	Omitted	"	78	Omitted
79	5231	4743	"	"	"	80	99	79	11911

(c) Changed slightly.

UNIFORM SALES ACT

Uniform Law Sec.	Minn.	Neb.	Nev.	N. H.	N. J.	N. Y.	N. D.	Ohio	Ore.
	Supp. Gen'l Stat. 1917 Supp. 1923 8376- 8455	Comp. Stat. 1922 Laws 1921 Ch. 216	Laws 1915 Ch. 159 Rev. Laws 1919, pp. 3033- 3052	Laws 1923 Ch. 122	Laws 1907 Ch. 132 Comp. Stat. pp. 4645- 4666	Personal Property Law	Laws 1917 Ch. 202	General Code	Oregon Laws 1920
1	6015-1	2470	1	1	1	82	1	8381	8165
2	6015-2	2471	2	2	2	83	2	8382	8166
3	6015-3	2472	3	3	3	84	3	8383	8167
4	6015-4	2473	4	4	4	85	4	8384	8168
5	6015-5	2474	5	5	5	86	5	8385	8169
6	6015-6	2475	6	6	6	87	6	8386	8170
7	6015-7	2476	7	7	7	88	7	8387	8171
8	6015-8	2477	8	8	8	89	8	8388	8172
9	6015-9	2478	9	9	9	90	9	8389	8173
10	6015-10	2479	10	10	10	91	10	8390	Omitted
11	6015-11	2480	11	11	11	92	11	8391	8174
12	6015-12	2481	12	12	12	93	12	8392	8175
13	6015-13	2482	13	13	13	94	13	8393	8176
14	6015-14	2483	14	14	14	95	14	8394	8177
15	6015-15	2484	15	15	15	96	15	8395	8178
16	6015-16	2485	16	16	16	97	16	8396	8179
17	6015-17	2486	17	17	17	98	17	8397	8180
18	6015-18	2487	18	18	18	99	18	8398	8181
19	6015-19	2488	19	19	19	100	19	8399	8182
20	6015-20	2489	20	20	20	101	20	8400	8183
21	6015-21	2490	21	21	21	102	21	8401	8184
22	6015-22	2491	22	22	22	103	22	8402	8185
23	6015-23	2492	23	23	23	104	23	8403	8186
24	6015-24	2493	24	24	24	105	24	8404	8187
25	6015-25	2494	25	25	25	106	25	8405	8188
26	6015-26	2495	26	26	26	107	26	8406	8189
27	6015-27	2496	27	27	27	108	27	8407	8190
28	6015-28	2497	28	28	28	109	28	8408	8191
29	6015-29	2498	29	29	29	110	29	8409	8192
30	6015-30	2499	30	30	30	111	30	8410	8193
31	6015-31	2500	31	31	31	112	31	8411	8194
32	6015-32	2501	32	32	32	113	32	8412	8195
33	6015-33	2502	33	33	33	114	33	8413	8196
34	6015-34	2503	34	34	34	115	34	8414	8197
35	6015-35	2504	35	35	35	116	35	8415	8198
36	6015-36	2505	36	36	36	117	36	8416	8199
37	6015-37	2506	37	37	37	118	37	8417	8200
38	6015-38	2507	38	38	38	119	38	8418	8201
39	6015-39	2508	39	39	39	120	39	8419	8202
40	6015-40	2509	40	40	40	121	40	8420	8203

UNIFORM SALES ACT—*Concluded.*

Uniform Law Sec.	Minn.	Neb.	Nev.	N. H.	N. J.	N. Y.	N. D.	Ohio	Ore.
	Supp. Gen'l Stat. 1917 Supp. 1923 8376- 8455	Comp. Stat. 1922 Laws 1921 Ch. 216	Laws 1915 Ch. 159 Rev. Laws 1919. Pp. 3033- 3052	Laws 1923 Ch. 122	Laws 1907 Ch. 132 Comp. Stat. Pp. 4645- 4666	Personal Property Law	Laws 1917 Ch. 202	General Code	Oregon Laws 1920
41	6015-41	2510	41	41	41	122	41	8421	8204
42	6015-42	2511	42	42	42	123	42	8422	8205
43	6015-43	2512	43	43	43	124	43	8423	8206
44	6015-44	2513	44	44	44	125	44	8424	8207
45	6015-45	2514	45	45	45	126	45	8425	8208
46	6015-46	2515	46	46	46	127	46	8426	8209
47	6015-47	2516	47	47	47	128	47	8427	8210
48	6015-48	2517	48	48	48	129	48	8428	8211
49	6015-49	2518	49	49	49	130	49	8429	8212
50	6015-50	2519	50	50	50	131	50	8430	8213
51	6015-51	2520	51	51	51	132	51	8431	8214
52	6015-52	2521	52	52	52	133	52	8432	8215
53	6015-53	2522	53	53	53	134	53	8433	8215
54	6015-54	2523	54	54	54	135	54	8434	8216
55	6015-55	2524	55	55	55	136	55	8435	8217
56	6015-56	2525	56	56	56	137	56	8436	Omitted
57	6015-57	2526	57	57	57	138	57	8437	8218
58	6015-58	2527	58	58	58	139	58	8438	8219
59	6015-59	2528	59	59	59	140	59	8439	8220
60	6015-60	2529	60	60	60	141	60	8440	8221
61	6015-61	2530	61	61	61	142	61	8441	8222
62	6015-62	2531	62	62	62	143	62	8442	8223
63	6015-63	2532	63	63	63	144	63	8443	8224
64	6015-64	2533	64	64	64	145	64	8444	8225
65	6015-65	2534	65	65	65	146	65	8445	8226
66	6015-66	2535	66	66	66	147	66	8446	8227
67	6015-67	2536	67	67	67	148	67	8447	8228
68	6015-68	2537	68	68	68	149	68	8448	8229
69	6015-69	2538	69	69	69	150	69	8449	8230
70	6015-70	2539	70	70	70	151	70	8450	8231
71	6015-71	2540	71	71	71	152	71	8451	8232
72	6015-72	2541	72	72	72	153	72	8452	8233
73	6015-73	2542	73	73	73	154	73	8453	8234
74	6015-74	2543	74	74	74	Omitted	74	8454	8235
75	6015-75	2544	75	75	75	155	75	8455	8236
76	6015-76	2545	76	76	76	156	76	8456	8237
76a	6015-76a	2546	76a	76a	76a	157	76a	Omitted	8238
76b	6015-76b	2547	76b	76b	76b	158	76b	"	8239
77	6015-77	2548	77	77	77	Omitted	77	"	8240
78	6015-78	2549	78	78	Omitted	"	78	"	Omitted
79	6015-79	Omitted	79	79	"	"	79	"	8241

UNIFORM SALES ACT

Uniform Law Sec.	Pa.	R. I.	S. D.	Tenn.	Utah	Vt.	Wis.	Wyo.	Alaska
	Pamph- let Laws 1915 p. 543	Gen'l Laws 1923 Chaps. 305-310	Laws 1921 Ch. 355	Laws 1919 Ch. 118	Comp. Laws 1917	Public Acts 1921 No. 171	Wis. Stat. 1923	Comp. Stat. 1920	Laws 1913 Ch. 66
1	1	Ch. 305 4427-1	1	1	5110	1	121.01	4723	1
2	2	4428-2	2	2	5111	2	121.02	4724	2
3	3	4429-3	3	3	5112	3	121.03	4725	3
4	4	4430-4	4	4	5113	4	121.04	4726	4
5	5	4431-5	5	5	5114	5	121.05	4727	5
6	6	4432-6	6	6	5115	6	121.06	4728	6
7	7	4433-7	7	7	5116	7	121.07	4729	7
8	8	4434-8	8	8	5117	8	121.08	4730	8
9	9	4435-9	9	9	5118	9	121.09	4731	9
10	10	4436-10	10	10	5119	10	121.10	4732	10
11	11	4437-11	11	11	5120	11	121.11	4733	11
12	12	4438-12	12	12	5121	12	121.12	4734	12
13	13	4439-13	13	13	5122	13	121.13	4735	13
14	14	4440-14	14	14	5123	14	121.14	4736	14
15	15	4441-15	15	15	5124	15	121.15	4737	15
16	16	4442-16	16	16	5125	16	121.16	4738	16
17	17	Ch. 306 4443-1	17	17	5126	17	121.17	4739	17
18	18	4444-2	18	18	5127	18	121.18	4740	18
19	19	4445-3	19	19	5128	19	121.19	4741	19
20	20	4446-4	20	20	5129	20	121.20	4742	20
21	21	4447-5	21	21	5130	21	121.21	4743	21
22	22	4448-6	22	22	5131	22	121.22	4744	22
23	23	4449-7	23	23	5132	23	121.23	4745	23
24	24	4450-8	24	24	5133	24	121.24	4746	24
25	25	4451-9	25	25	5134	25	121.25	4747	25
26	26	4452-10	26	26	5135	26	121.26	4748	26
27	27	4453-11	27	27	5136	27	121.27	4749	27
28	28	4454-12	28	28	5137	28	121.28	4750	28
29	29	4455-13	29	29	5138	29	121.29	4751	29
30	30	4456-14	30	30	5139	30	121.30	4752	30
31	31	4457-15	31	31	5140	31	121.31	4753	31
32	32	4458-16	32	32	5141	32	121.32	4754	32
33	33	4459-17	33	33	5142	33	121.33	4755	33
34	34	4460-18	34	34	5143	34	121.34	4756	34
35	35	4461-19	35	35	5144	35	121.35	4757	35
36	36	4462-20	36	36	5145	36	121.36	4758	36
37	37	4463-21	37	37	5146	37	121.37	4759	37
38	38	4464-22	38	38	5147	38	121.38	4760	38
39	39	4465-23	39	39	5148	39	121.39	4761	39
40	40	4466-24	40	40	5149	40	121.40	4762	40

UNIFORM SALES ACT—*Concluded.*

Uniform Law Sec.	Pa.	R. I.	S. D.	Tenn.	Utah	Vt.	Wis.	Wyo.	Alaska
	Pamph- let Laws 1915 P. 543	Gen'l Laws 1923 Chaps. 305-310	Laws 1921 Ch. 355	Laws 1919 Ch. 118	Comp. Laws 1917	Public Acts 1921 No. 171	Wis. Stat. 1923	Comp. Stat. 1920	Laws 1913 Ch. 66
41	41	Ch. 307 4467-1	41	41	5150	41	121.41	4763	41
42	42	4468-2	42	42	5151	42	121.42	4764	42
43	43	4469-3	43	43	5152	43	121.43	4765	43
44	44	4470-4	44	44	5153	44	121.44	4766	44
45	45	4471-5	45	45	5154	45	121.45	4767	45
46	46	4472-6	46	46	5155	46	121.46	4768	46
47	47	4473-7	47	47	5156	47	121.47	4769	47
48	48	4474-8	48	48	5157	48	121.48	4770	48
49	49	4475-9	49	49	5158	49	121.49	4771	49
50	50	4476-10	50	50	5159	50	121.50	4772	50
51	51	4477-11	51	51	5160	51	121.51	4773	51
52	52	Ch. 308 4478-1	52	52	5161	52	121.52	4774	52
53	53	4479-2	53	53	5162	53	121.53	4775	53
54	54	4480-3	54	54	5163	54	121.54	4776	54
55	55	4481-4	55	55	5164	55	121.55	4777	55
56	56	4482-5	56	56	5165	56	121.56	4778	56
57	57	4483-6	57	57	5166	57	121.57	4779	57
58	58	4484-7	58	58	5167	58	121.58	4780	58
59	59	4485-8	59	59	5168	59	121.59	4781	59
60	60	4486-9	60	60	5169	60	121.60	4782	60
61	61	4487-10	61	61	5170	61	121.61	4783	61
62	62	4488-11	62	62	5171	62	121.62	4784	62
63	63	Ch. 309 4489-1	63	63	5172	63	121.63	4785	63
64	64	4490-2	64	64	5173	64	121.64	4786	64
65	65	4491-3	65	65	5174	65	121.65	4787	65
66	66	4492-4	66	66	5175	66	121.66	4788	66
67	67	4493-5	67	67	5176	67	121.67	4789	67
68	68	4494-6	68	68	5177	68	121.68	4790	68
69	69	4495-7	69	69	5178	69	121.69	4791	69
70	70	4496-8	70	70	5179	70	121.70	4792	70
71	71	Ch. 310 4497-1	71	71	5180	71	121.71	4793	71
72	72	4498-2	72	72	5181	72	121.72	4794	72
73	73	4499-3	73	73	5182	73	121.73	4795	73
74	74	4500-4	74	74	5183	74	121.74	4796	74
75	75	4501-5	75	75	5184	75	121.75	4797	75
76	76	4502-6	76	76	5185	76	121.76	4798	76
76a	Omitted	Omitted	76a	76a	5186	76a	121.77	4799	76a
76b	"	"	76b	76b	5187	76b	121.78	4800	76b
77	77	"	77	77	5188	78	Omitted	Omitted	77
79	79	"	78	78	Omitted	Omitted	"	"	78
79	80	"	79	79	5189	77	121.79	4801	79
	78 (n)								

(n) Pennsylvania, Sec. 78 not in original Act; new.

AMENDMENTS TO UNIFORM SALES ACT

Uniform Law Section	Tenn.	Vt.
	Laws of 1923	Public Acts No. 107, 1923 Page 111
1.....	1	1
2.....	2	2

UNIFORM STOCK TRANSFER ACT

Uniform Law Sec.	Ark.	Conn.	Ill.	Ind.	La.	Md.	Mass.	Mich.	N. J.
	Laws 1923 Ch. 387	Gen'l Stat. 1918	Rev. Stat. 1923 Ch. 32	Laws 1923 Ch. 24	Act 180 of 1910	Code 1911 Art. 23 Act 1910 Ch. 73	Laws 1910 Ch. 171 Gen'l Laws 1921 Ch. 155 Secs. 24-44	Comp. Laws 1915	Laws 1916 Ch. 191 P. 399
1	1	3469	229	1	1	38	1	11920	1
2	2	3470	230	2	2	39	2	11921	2
3	3	3471	231	3	3	40	3	11922	3
4	4	3472	232	4	4	41	4	11923	4
5	5	3473	233	5	5	42	5	11924	5
6	6	3474	234	6	6	43	6	11925	6
7	7	3475	235	7	7	44	7	11926	7
8	8	3476	236	8	8	45	8	11927	8
9	9	3477	237	9	9	46	9	11928	9
10	10	3478	238	10	10	47	10	11929	10
11	11	3479	239	11	11	48	11	11930	11
12	12	3480	240	12	12	49	12	11931	12
13	13	3481	241	13	13	50	13	11932	13
14	14	3482	242	14	14	51	14	11933	14
15	15	3483	243	15	15	52	15	11934	15
16	16	3484	244	16	16	53	16	11935	16
17	17	3485	245	17	17	Omitted	17	11936	17
18	18	3486 (a)	246	18	18	54	18	11937	18
19	19	Omitted	247	19	19	55	19	11938	19
20	20	3487	248	20	20	56	20	11939	20
21	21	3488	249	21	21	57	21	11940	21
22	22	3489	250	22	22	58	22	11941	22
23	23	Omitted	251	23	23	59	23	11942	23
24	24	"	252	24	24	Omitted	24	11943	25
25	26	"	Omitted	25	25	"	26	Omitted	Omitted
26	25	"	253	26	26	60	25	11944	24
		3490 (n)							

(a) Additional clause to section.

(n) New. Conn. adds sec. 3490 not in Uniform Act.

UNIFORM STOCK TRANSFER ACT

	N. Y.	Ohio	Pa.	R. I.	S. D.	Tenn.	Va.	Wis.	Alaska
Uniform Law Sec.	Personal Property Law	General Code Laws 1911 P. 500	Pamph- let Laws 1911 P. 126	Gen'l Laws 1923 Ch. 250	Laws 1921 Ch. 159	Laws 1917 Ch. 113 Shan- non's Code Secs. 2053a 13 b1-2053a 13b 25	Code 1924	Laws 1913 Ch. 458 Stats. 1923	Laws 1913 Ch. 67
1	162	8673-1	1	3573	1	1	3848 (2)	183.01	1
2	163	8673-2	2	3574	2	2	3848 (3)	183.02	2
3	164	8673-3	3	3575	3	3	3848 (4)	183.03	3
4	165	8673-4	4	3576	4	4	3848 (5)	183.04	4
5	166	8673-5	5	3577	5	5	3848 (6)	183.05	5
6	167	8673-6	6	3578	6	6	3848 (7)	183.06	6
7	168	8673-7	7	3579	7	7	3848 (8)	183.07	7
8	169	8673-8	8	3580	8	8	3848 (9)	183.08	8
9	170	8673-9	9	3581	9	9	3848 (10)	183.09	9
10	171	8673-10	10	3582	10	10	3848 (11)	183.10	10
11	172	8673-11	11	3583	11	11	3848 (12)	183.11	11
12	173	8673-12	12	3584	12	12	3848 (13)	183.12	12
13	174	8673-13	13	3585	13	13	3848 (14)	Omitted	13
14	175	8673-14	14	3586	14	14	3848 (15)	183.13	14
15	176	8673-15	15	3587	15	15	3848 (16)	183.14	15
16	177	8673-16	16	3588	16	16	3848 (17)	183.15	16
17	178	8673-17	17	3589	17	17	3848 (18)	183.16	17
18	179	8673-18	18	3590	18	18	3848 (19)	183.17	18
19	180	8673-19	19	3591	19	19	3848 (20)	183.18	19
20	181	8673-20	20	3592	20	20	3848 (21)	183.19	20
21	182	8673-21	21	3593	21	21	3848 (22)	183.20	21
22	183	8673-22	22	3594	22	22	3848 (23)	183.21	22
23	184	8673-22	23	3595	23	23	3848 (24)	183.22	23
24	185	Omitted	24	Omitted	24	24	3848 (25)	Omitted	24
25	Omitted	8673-22	25	"	25	25	3848 (26)	"	25
26	"	Omitted	26	"	26	26	Omitted	183.23	26

UNIFORM VITAL STATISTICS ACT

	W. Va.		W. Va.
Uniform Law Section	Barnes' Code 1923 Ch. 150 Page 2722	Uniform Law Section	Barnes' Code 1923 Ch. 150 Page 2722
1	23	15	28-i
2	24	16	Omitted
3	25	17	28-j
4	26	18	28-k
5	27	19	Omitted
6	28	20	28-l
7	28-a	21	Omitted
8	28-b	22	28-m
9	28-c	23	28-n
10	28-d	24	28-q
11	28-e	25	29
12	28-f	26	Omitted
13	28-g	27	"
14	28-h	28	"

UNIFORM WAREHOUSE RECEIPTS ACT

Uniform Law Section	Ala.	Ariz.	Ark.	Cal.	Colo.	Conn.
	Civil Code 1923	Session Laws 1921 Ch. 47	Laws 1915 Ch. 273	Act 9059 Gen. Laws of Cal. 1909	Comp. Laws 1921 Ch. 70 p. 1155	General Statutes 1918
1.....	10505	1	1	1	4050	4553
2.....	10506	2	2	2	4051	4554
3.....	10507	3	3	3	4052	4555
4.....	10508	4	4	4	4053	4556
5.....	10509	5	5	5	4054	4557
6.....	10510	6	6	6	4055	4558
7.....	10511	7	7	7	4056	4559
8.....	10512	8	8	8	4057	4560
9.....	10513	9	9	9	4058	4561
10.....	10514	10	10	10	4059	4562
11.....	10515	11	11	11	4060	4563
12.....	10516	12	12	12	4061	4564
13.....	10517	13	13	13	4062	4565
14.....	10518 10519 10520	14	14	14	4063	4566
15.....	10521	15	15	15	4064	4567
16.....	10522	16	16	16	4065	4568
17.....	10523	17	17	17	4066	4569
18.....	10524	18	18	18	4067	4570
19.....	10525	19	19	19	4068	4571
20.....	10526 (c)	20	20	20	4069	4572
21.....	10527	21	21	21	4070	4573
22.....	10528	22	22	22	4071	4574
23.....	10529	23	23	23	4072	4575
24.....	10530	24	24	24	4073	4576
25.....	10531	25	25	25	4074	4577
26.....	10532	26	26	26	4075	4578
27.....	10533	27	27	27	4076	4579
28.....	10534	28	28	28	4077	4580
29.....	10535	29	29	29	4078	4581
30.....	10536	30	30	30	4079	4582

(c) Changed.

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded.*

Uniform Law Section	Ala. Civil Code 1923	Ariz. Session Laws 1921 Ch. 47	Ark. Laws 1915 Ch. 273	Cal. Act 9059 Gen. Laws of Cal. 1909	Colo. Comp. Laws 1921 Ch. 70 P. 1155	Conn. General Statutes 1918
31.	10537	31	31	31	4080	4583
32.	10538	32	32	32	4081	4584
33.	10539-42	33	33	33	4082	4585
34.	10543	34	34	34	4083	4586
35.	10544	35	35	35	4084	4587
36.	10545	36	36	36	4085	4588
37.	10546	37	37	37	4086	4589
38.	10547	38	38	38	4087	4590
39.	10548	39	39	39	4088	4591
40.	10549 (c)	40	40	40	4089	4592
41.	10550	41	41	41	4090	4593
42.	10551-52	42	42	42	4091	4594
43.	10553	43	43	43	4092	4595
44.	10554	44	44	44	4093	4596
45.	10555	45	45	45	4094	4597
46.	10556	46	46	46	4095	4598
47.	10557 (c)	47	47	47	4096	4599
48.	10558	48	48	48	4097	4600
49.	10559	49	49	49	4098	4601
50.	Omitted	50	50	50	4099	4602
51.	"	51	51	51	4100	4603
52.	"	52	52	52	4101	4604
53.	"	53	53	53	4102	4605
54.	"	54	54	54	4103	4606
55.	"	55	55	55	4104	4607
56.	10560	56	56	56	4105	4608
57.	10561	57	57	57	4106	4609
58.	10562	58	58	58	4107	4610
59.	10563	59	59	59	4108	4611
60.	Omitted	60	60	60	Omitted	Omitted
61.	"	61	61	Omitted	"	"
62.	"	62	Omitted	61	"	4612
	10564 (n)					

(c) Changed.

(n) New.

UNIFORM WAREHOUSE RECEIPTS ACT

Uniform Law Sec.	Del.		Fla.	Idaho	Ill.	Ind.	Iowa
	Laws 1917, Ch. 221 Rev. Code		Acts 1917 Ch. 7403	Comp. Stat. 1919	Rev. Stat. 1923 Ch. 114	Laws 1921 Ch. 100 Burn's Stat. 1921 Supp. Secs. 10517a- 10517i2	Code 1924
1	2633	Sec. 13	4883	6119	236	1	9661 (1)
2	2634	" 14	4884	6120	237	2	9662 (2)
3	2635	" 15	4885	6121	238	3	9663 (3)
4	2636	" 16	4886	6122	239	4	9664 (4)
5	2637	" 17	4887	6123	240	5	9665 (5)
6	2637A	" 17A	4888	6124	241	6	9666 (6)
7	2637B	" 17B	4889	6125	242	7	9667 (7)
8	2637C	" 17C	4890	6126	243	8	9668 (8)
9	2637D	" 17D	4891	6127	244	9	9669 (9)
10	2637E	" 17E	4892	6128	245	10	9670 (10)
11	2637F	" 17F	4893	6129	246	11	9671 (11)
12	2637G	" 17G	4894	6130	247	12	9672 (12)
13	2637H	" 17H	4895	6131	248	13	9673 (13)
14	2637I	" 17I	4896	6132	249	14	9674 (14)
15	2637J	" 17J	4897	6133	250	15	9675 (15)
16	2637K	" 17K	4898	6134	251	16	9676 (16)
17	2637L	" 17L	4899	6135	252	17	9677 (17)
18	2637M	" 17M	4900	6136	253	18	9678 (18)
19	2637N	" 17N	4901	6137	254	19	9679 (19)
20	2636O	" 17O	4902	6138	255	20	9680 (20)
21	2637P	" 17P	4903	6139	256	21	9681 (21)
22	2637Q	" 17Q	4904	6140	257	22	9682 (22)
23	2637R	" 17R	4905	6141	258	23	9683 (23)
24	2637S	" 17S	4906	6142	259	24	9684 (24)
25	2637T	" 17T	4907	6143	260	25	9685 (25)
26	2637U	" 17U	4908	6144	261	26	9686 (26)
27	2637V	" 17V	4909	6145	262	27	9687 (27)
28	2637W	" 17W	4910	6146	263	28	9688 (28)
29	2637X	" 17X	4911	6147	264	29	9689 (29)
30	2637Y	" 17Y	4912	6148	265	30	9690 (30)
31	2637Z	" 17Z	4913	6149	266	31	9691 (31)

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded*

Uniform Law Sec.	Del.		Fla.	Idaho	Ill.	Ind.	Iowa
	Laws 1917, Ch. 221 Rev. Code		Act 1917 Ch. 7403	Comp. Stat. 1919	Rev. Stat. 1923 Ch. 114	Laws 1921 Ch. 100 Burn's Stat. 1921 Supp. Secs. 10517a- 10517 i2	Code 1924
32	2637AA	Sec. 17AA	4914	6150	267	32	9692 (32)
33	2637BB	" 17BB	4915	6151	268	33	9693 (33)
34	2637CC	" 17CC	4916	6152	269	34	9694 (34)
35	2637DD	" 17DD	4917	6153	270	35	9695 (35)
36	2637EE	" 17EE	4918	6154	271	36	9696 (36)
37	2637FF	" 17FF	4921	6155	272	37	9697 (37)
38	2637GG	" 17GG	4922	6156	273	38	9698 (38)
39	2637HH	" 17HH	4923	6157	274	39	9699 (39)
40	2637II	" 17II	4924	6158	275	40	9700 (40)
41	2637JJ	" 17JJ	4925	6159	276	41	9701 (41)
42	2637KK	" 17KK	4926	6160	277	42	9702 (42)
43	2637LL	" 17LL	4927	6161	278	43	9703 (43)
44	2637MM	" 17MM	4928	6162	279	44	9704 (44)
45	2637NN	" 17NN	4929	6163	280	45	9705 (45)
46	2637OO	" 17OO	4930	6164	281	46	9706 (46)
47	2637PP	" 17PP	4931	6165	282	47	9707 (47)
48	2637QQ	" 17QQ	4932	6166	283	48	9708 (48)
49	2637RR	" 17RR	4933	6167	284	49	9709 (49)
50	2637SS	" 17SS	5673	6168	285	50	9710 (50)
51	2637TT	" 17TT	5674	6169	286	51	9711 (51)
52	2637UU	" 17UU	5675	6170	287	52	9712 (52)
53	2637VV	" 17VV	5676	6171	288	53	9713 (53)
54	2637WW	" 17WW	5676	6172	289	54	9714 (54)
55	2637XX	" 17XX	5678	6173	290	55	9715 (55)
56	2637YY	" 17YY	4934	6174	291	56	9716 (56)
57	2637ZZ	"	4935	6175	292	57	9717 (57)
58	2637AAA	" 17AAA	4936	6176	293	58	9718 (58)
59	2637BBB	" 17BBB	4937	6177	294	59	Omitted
60	Omitted		Omitted	Omitted	295	60	"
61	2637CCC	" 17CCC	"	"	Omitted	61	"
62	2637DDD	" 17DDD	"	"	"	62	"

UNIFORM WAREHOUSE RECEIPTS ACT

	Kan.	La.	Me.	Md.	Mass.	Mich.
Uniform Law Section	Revised Stat. 1923 Ch. 82	Act 221 of 1908	Laws 1917 Ch. 143	Code 1911 Art. 14-A Act 1910 Ch. 406	Laws 1907 Ch. 582 Gen'l Laws 1921 Ch. 105 (Part)	Comp. Laws 1915
1.....	101	1	1	1	2	6563
2.....	102	2	2	2	3	6564
3.....	103	3	3	3	4	6565
4.....	104	4	4	4	5	6566
5.....	105	5	5	5	6	6567
6.....	106	6	6	6	7	6568
7.....	107	7	7	7	8	6569
8.....	108	8	8	8	9	6570
9.....	109	9	9	9	10	6571
10.....	110	10	10	10	11	6572
11.....	111	11	11	11	12	6573
12.....	112	12	12	12	13	6574
13.....	113	13	13	13	14	6575
14.....	114	14	14	14	15	6576
15.....	115	15	15	15	16	6577
16.....	116	16	16	16	17	6578
17.....	117	17	17	17	18	6579
18.....	118	18	18	18	19	6580
19.....	119	19	19	19	20	6581
20.....	120	20	20	20	21	6582
21.....	121	21	21	21	22	6583
22.....	122	22	22	22	23	6584
23.....	123	23	23	23	24	6585
24.....	124	24	24	24	25	6586
25.....	125	25	25	25	26	6587
26.....	126	26	26	26	27	6588
27.....	127	27	27	27	28	6589
28.....	128	28	28	28	29	6590
29.....	129	29	29	29	30	6591
30.....	130	30	30	30	31	6592
31.....	131	31	31	31	32	6593

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded.*

Uniform Law Section	Kan.	La.	Me.	Md.	Mass.	Mich.
	Revised Stat. 1923 h. 82	Act 221 of 1908	Laws 1917 Ch. 143	Code 1911 Art. 14-A Act 1910 Ch. 406	Laws 1907 Ch. 582 Gen'l Laws 1921 Ch. 105 (Part)	Comp. Laws 1915
32.....	132	32	32	32	33	6594
33.....	133	33	33	33	34	6595
34.....	134	34	34	34	35	6596
35.....	135	35	35	35	36	6597
36.....	136	36	36	36	37	6598
37.....	137	37	37	37	38	6599
38.....	138	38	38	38	39	6600
39.....	139	39	39	39	40	6601
40.....	140	40	40	40	41	6602
41.....	141	41	41	41	42	6603
42.....	142	42	42	42	43	6604
43.....	143	43	43	43	44	6605
44.....	144	44	44	44	45	6606
45.....	145	45	45	45	46	6607
46.....	146	46	46	46	47	6608
47.....	147	37	47	47	48	6609
48.....	148	48	48	48	49	6610
49.....	149	49	49	49	50	6611
50.....	150	50	50	50	51	6612
51.....	151	51	51	51	52	6613
52.....	152	52	52	52	53	6614
53.....	153	53	53	53	54	6615
54.....	154	54	54	54	55	6616
55.....	155	55	55	55	56	6617
56.....	156	56	56	56	57	6618
57.....	157	57	57	57	58	Omitted
58.....	158	58	58	58	1	6619
59.....	159	59	59	59	59	6620
60.....	Omitted	60	60	Omitted	60	6621
61.....	"	Omitted	Omitted	"	61	Omitted
62.....	160	61	61	60	62	"

UNIFORM WAREHOUSE RECEIPTS ACT

Uniform Law Sec.	Minn.	Miss.	Mo.	Mont.	Neb.	Nev.	N. J.	N. M.	N. Y.
	Gen'l Stat. 1913 Gen'l Stat. 1923 5110- 5171	Hem- ing- way's Code Laws of 1922 Ch. 286	Rev. Stat. 1919 Ch. 126	Rev. Codes 1921 Laws 1917 Ch. 154	Comp. Stat. 1922 Laws 1909 Ch. 152	Laws of 1913 Ch. 269 Rev. Laws 1919 pp. 3213 -3224	Pamph- let Laws 1907 Ch. 133 p. 341 Comp. Stat. 1910 pp. 5777 -5778	Code 1915 Laws 1909 Ch. 38	New York Sections General Business Law
1	4514	7957a	13465	4079	7161	1	1	5585	90
2	4515	7957b	13466	4080	7162	2	2	5586	91
3	4516	7957c	13467	4081	7163	3	3	5587	91
4	4517	7957d	13468	4082	7164	4	4	5588	92
5	4518	7957e	13469	4083	7165	5	5	5589	92
6	4519	7957f	13470	4084	7166	6	6	5590	93
7	4520	7957g	13471	4085	7167	7	7	5591	94
8	4521	7957h	13472	4086	7168	8	8	5592	95
9	4522	7957i	13473	4087	7169	9	9	5593	96
10	4523	7957j	13474	4088	7170	10	10	5594	97
11	4524	7957k	13475	4089	7171	11	11	5595	98
12	4525	7957l	Omitted	4090	7172	12	12	5596	98
13	4526	7957m	13476	4091	7173	13	13	5597	99
14	4527	7957n	13477	4092	7174	14	14	5598	100
15	4528	7957o	13478	4093	7175	15	15	5599	101
16	4529	7957p	13479	4094	7176	16	16	5600	102
17	4530	7957q	13480	4095	7177	17	17	5601	103
18	4531	7957r	13481	4096	7178	18	18	5602	104
19	4532	7957s	13482	4097	7179	19	19	5603	105
20	4533	7957t	13483	4098	7180	20	20	5604	106
21	4534	7957u	13484	4099	7181	21	21	5605	107
22	4535	7957v	13485	4100	7182	22	22	5606	108
23	4536	7957w	13486	4101	7183	23	23	5607	109
24	4537	7957x	13487	4102	7184	24	24	5608	109
25	4538	7957y	13488	4103	7185	25	25	5609	110
26	4539	7957z	13489	4104	7186	26	26	5610	111
27	4540	7957a-1	13490	4105	7187	27	27	5611	112
28	4541	7957b-1	13491	4106	7188	28	28	5612	113
29	4542	7957c-1	13492	4107	7189	29	29	5613	114
30	4543	7957d-1	13493	4108	7190	30	30	5614	115
31	4544	7957e-1	13494	4109	7191	31	31	5615	116

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded.*

Uniform Law Sec	Minn.	Miss.	Mo.	Mont.	Neb.	Nev.	N. J.	N. M.	N. Y.
	Gen'l Stat. 1913 Gen'l Stat. 1923 5110-5171	Hem- ing- way's Code Laws of 1922 Ch. 286	Rev. Stat. 1919 Ch. 126	Rev. Codes 1921 Laws 1917 Ch. 154	Comp. Stat. 1922 Laws 1909 Ch. 152	Laws of 1913 Ch. 269 Rev. Laws 1919 pp. 3213-3224	Pamph- let Laws 1907 Ch. 133 P. 341 Comp. Stat. 1910 pp. 5777-5778	Code 1915 Laws 1909 Ch. 38	New York Sections General Business Law
32	4546	7957f-1	13495	4110	7192	32	32	5616	117
33	4547	7957g-1	13496	4111	7193	33	33	5617	118
34	4548	7957h-1	13497	4112	7194	34	34	5618	119
35	4549	7957i-1	13498	4113	7195	35	35	5619	120
36	4550	7957j-1	13499	4114	7196	36	36	5620	121
37	4551	7957k-1	13500	4115	7197	37	37	5621	122
38	4552	7957l-1	13501	4116	7198	38	38	5622	122
39	4553	7957m-1	13502	4117	7199	39	39	5623	123
40	4554	7957n-1	13503	4118	7200	40	40	5624	124
41	4555	7957o-1	13504	4119	7201	41	41	5625	125
42	4556	7957p-1	13505	4120	7202	42	42	5626	126
43	4557	7957q-1	13506	4121	7203	43	43	5627	127
44	4558	7957r-1	13507	4122	7204	44	44	5628	128
45	4559	7957s-1	13508	4123	7205	45	45	5629	129
46	4560	7957t-1	13509	4124	7206	46	46	5630	130
47	4561	7957u-1	13510	4125	7207	47	47	5631	131
48	4562	7957v-1	13511	4126	7208	48	48	5632	132
49	4563	7957w-1	13512	4127	7209	49	49	5633	133
50	4564	7957x-1	13513	4128	7210	50	50	5634	134
51	4565	7957y-1	13514	4129	7211	51	51	5635	135
52	4566	7957z-1	13515	4130	7212	52	52	5636	136
53	4567	7957a-2	13516	4131	7213	53	53	5637	137
54	4568	7957b-2	13517	4132	7214	54	54	5638	138
55	4569	7957c-2	13518	4133	7215	55	55	5639	139
56	4570	7957d-2	13519	4134	7216	56	56	5640	140
57	4571	7957e-2	13520	4135	7217	57	57	5641	141
58	4572	7957f-2	13521	4136	7218	58	58	5642	142
59	4573	7957g-2	13522	4137	7219	59	59	5643	143
60	4574	7957h-2	Omitted	4138	7220	60	60	5644	Omitted
61	Omitted	7957i-2	"	Omitted	7221	Omitted	Omitted	Omitted	"
62	4575	7957j-2	"	"	7222	61	"	"	"

UNIFORM WAREHOUSE RECEIPTS ACT

Uniform Law Sec.	N. C.	N. D.	Ohio	Okla.	Ore.	Pa.	P. R.	R. I.	S. D.
	Laws 1917 Ch. 37	Laws 1917 Ch. 250	General Code	Comp. Stat. 1921 Laws 1915 Ch. 288	Oregon Laws 1920	Pamph- let Laws 1909 Page 19	Laws 1918 No. 9	General Laws 1923 Chaps. 312-316	Session Laws 1913 Ch. 364 Rev. Code 1919 Secs. 1906- 1956
1	1	1	8457	11123	Omitted	1	1	4505	1
2	2	2	8458	11124	8009	2	2	4506	2
3	3	3	8459	11125	8010	3	3	4507	3
4	4	4	8460	11126	8011	4	4	4508	4
5	5	5	8461	11127	8012	5	5	4509	5
6	6	6	8462	11128	8013	6	6	4510	6
7	7	7	8463	11129	8014	7	7	4511	7
8	8	8	8464	11130	8015	8	8	4512	8
9	9	9	8465	11131	8016	9	9	4513	9
10	10	10	8466	11132	8017	10	10	4514	10
11	11	11	8467	11133	8018	11	11	4515	11
12	12	12	8468	11134	8019	12	12	4516	12
13	13	13	8469	11135	8020	13	13	4517	13
14	14	14	8470	11136	8021	14	14	4518	14
15	15	15	8471	11137	8022	15	15	4519	15
16	16	16	8472	11138	8023	16	16	4520	16
17	17	17	8473	11139	8024	17	17	4521	17
18	18	18	8474	11140	8025	18	18	4522	18
19	19	19	8475	11141	8026	19	19	4523	19
20	20	20	8476	11142	8027	20	20	4524	20
21	21	21	8477	11143	8028	21	21	4525	21
22	22	22	8478	11144	8029	22	22	4526	22
23	23	23	8479	11145	8030	23	23	4527	23
24	24	24	8480	11146	8031	24	24	4528	24
25	25	25	8481	11147	8032	25	25	4529	25
26	26	26	8482	11148	8033	26	26	4530	26
27	27	27	8483	11149	8034	27	27	4531	27
28	28	28	8484	11150	8035	28	28	4532	28
29	29	29	8485	11151	8036	29	29	4533	29
30	30	30	8486	11152	8037	30	30	4534	30
31	31	31	8487	11153	8038	31	31	4535	31

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded.*

Uniform Law Sec.	N. C.	N. D.	Ohio	Okla.	Ore.	Pa.	P. R.	R. I.	S. D.
	Laws 1917 Ch. 37	Laws 1917 Ch. 250	General Code	Comp. Stat. 1921 Laws 1915 Ch. 288	Oregon Laws 1920	Pamph- let Laws 1909 Page 19	Laws 1918 No. 9	General Laws 1923 Chaps. 312-316	Session Laws 1913 Ch. 364 Rev. Code 1919 Secs. 1906- 1956
32	32	32	8488	11154	8039	32	32	4536	32
33	33	33	8489	11155	8040	33	33	4537	33
34	34	34	8490	11156	8041	34	34	4538	34
35	35	35	8491	11157	8042	35	35	4539	35
36	36	36	8492	11158	8043	36	36	4540	36
37	37	37	8493	11159	8044	37	37	4541	37
38	38	38	8494	11160	8045	38	38	4542	38
39	39	39	8495	11161	8046	39	39	4543	39
40	40	40	8496	11162	8047	40	40	4544	40
41	41	41	8497	11163	8048	41	41	4545	41
42	42	42	8498	11164	8049	42	42	4546	42
43	43	43	8499	11165	8050	43	43	4547	43
44	44	44	8500	11166	8051	44	44	4548	44
45	45	45	8501	11167	8052	45	45	4549	45
46	46	46	8502	11168	8053	46	46	4550	46
47	47	47	8503	11169	8054	47	47	4551	47
48	48	48	8504	11170	8055	48	48	4552	48
49	49	49	8505	11171	8056	49	49	4553	49
50	50	50	8506	11172	8057	50	50	4554	50
51	51	51 (c)	8507	11173	8058	51	51	4555	51
52	52	52	8508	11174	8059	52	52	4556	52
53	53	53	8509	11175	8060	53	53	4557	53
54	54	54	8510	11176	8061	54	54	4558	54
55	55	55	8511	11177	8062	55	55	4559	55
56	56	56	8512	11178	8063	56	56	4560	56
57	57	57	8513	11179	8064	57	Omitted	4561	57
58	58	58	8514	11180	8065	58	58	4562	58
59	59	59	8515	11181	8066	59	59	4563	59
60	60	60	Omitted	11182	Omitted	60	60	Omitted	60
61	61	61	"	11183	8067	61	61	"	61
62	62	62	"	Omitted	8068	62	57	"	62

(c) Changed.

UNIFORM WAREHOUSE RECEIPTS ACT

	Tenn.	Texas	Utah	Vt.	Va.	Wash.
Uniform Law Section	Code of 1917 Laws 1909 Ch. 336	Laws 1919	Comp. Laws 1917	General Laws 1912 Ch. 142	Code 1924	Remington Code 1922
1.....	3608a-1	1	6201	3115 (a)	1290	3587
2.....	3608a-2	2	6202	3116	1291	3588
3.....	2608a-3	3	6203	3117	1292	3589
4.....	2608a-4	4	6204	3118	1293	3590
5.....	2608a-5	5	6205	3119	1294	3591
6.....	3608a-6	6	6206	3120	1295	3592
7.....	3608a-7	7	6207	3121	1296	3593
8.....	3608a-8	8	6208	3122	1297	3594
9.....	3608a-9	9	6209	3123	1298	3595
10.....	3608a-10	10	6210	3124	1299	3596
11.....	3608a-11	11	6211	3125	1300	3597
12.....	3608a-12	12	6212	3126	1301	3598
13.....	3608a-13	13	6213	3127	1302	3599
14.....	3608a-14	14	6214	3128	1303	3600
15.....	3608a-15	15	6215	3129	1304	3601
16.....	3608a-16	16	6216	3130	1305	3602
17.....	3608a-17	17	6217	3131	1306	3603
18.....	3608a-18	18	6218	3132	1307	3604
19.....	3608a-19	19	6219	3133	1308	3605
20.....	3608a-20	20	6220	3134	1309	3606
21.....	3608a-21	21	6221	3135	1310	3607
22.....	3608a-22	22	6222	3136	1311	3608
23.....	3608a-23	23	6223	3137	1312	3609
24.....	3608a-24	24	6224	3138	1313	3610
25.....	3608a-25	25	6225	3139	1314	3611
26.....	3608a-26	26	6226	3140	1315	3612
27.....	3608a-27	27	6227	3141	1316	3613
28.....	3608a-28	28	6228	3142	1317	3614
29.....	3608a-29	29	6229	3143	1318	3615
30.....	3608a-30	30	6230	3144	1319	3616
31.....	3608a-31	31	6231	3145	1320	3617

(a) Addition.

UNIFORM WAREHOUSE RECEIPTS ACT—*Concluded.*

	Tenn.	Texas	Utah	Vt.	Va.	Wash.
Uniform Law Section	Code of 1917 Laws 1909 Ch. 336	Laws 1919	Comp. Laws 1917	General Laws 1912 Ch. 142	Code 1924	Remington Code 1922
32.....	3608a-32	32	6232	3146	1321	3618
33.....	3608a-33-38	33 (c)	6233	3147	1322	3619
34.....	3608a-39	34	6234	3148	1323	3620
35.....	3608a-40	35	6235	3149	1324	3621
36.....	3608a-41	36	6236	3150	1325	3622
37.....	3608a-42-43	37	6237	3151	1326	3623
38.....	3608a-44	38	6238	3152	1327	3624
39.....	3608a-45	39	6239	3153	1328	3625
40.....	3608a-46	40	6240	3154	1329	3626
41.....	3608a-47	41	6241	3155	1330	3627
42.....	3608a-48	42	6242	3156	1331	3628
43.....	3608a-49	43	6243	3157	1332	3629
44.....	3608a-50	44	6244	3158	1333	3630
45.....	3608a-51	45	6245	3159	1334	3631
46.....	3608a-52	46	6246	3160	1335	3632
47.....	3608a-53	47	6247	3161	1336	3633
48.....	3608a-54	48	6248	3162	1337	3634
49.....	3608a-55	49	6249	3163	1338	3635
50.....	3608a-56	50	6250	3164	1339	3636
51.....	3608a-57	51	6251	3165	1340	3637
52.....	3608a-58	52	6252	3166	1341	3638
53.....	3608a-59	53	6253	3167	1342	3639
54.....	3608a-60	54	6354	3168	1343	3640
55.....	3608a-61	55	6255	3169 (b)	1344	3641
56.....	3608a-62	59 (b)	6256	3171	1345	3642
57.....	3608a-63	60	6257	3172	1346	3643
58.....	3608a-64	61	6258	3114	1347	3644
59.....	3608a-65	62	6259	Omitted	Omitted	3645
60.....	3608a-66	63	Omitted	"	"	Omitted
61.....	3608a-67	Omitted	"	"	"	"
62.....	3608a-68	"	6260	"	"	3646

(c) Changed.

(b) Inserts Secs. 56, 57 and 58 not in Uniform Act (Texas). Inserts Secs. 3120 not in Uniform Act (Vermont).

Wisconsin inserts secs. 119.03; 119.26; 119.58; 119.59 not in uniform Act.

UNIFORM WAREHOUSE RECEIPTS ACT

	W. Va.	Wis.	Wyo.	Alaska	D. C.	Phil. Isls.
Uniform Law Section	Barnes' Code 1923 Ch. 62 T Page 1367	Stats. 1923	Comp. Stat. 1920	Laws 1913 Ch. 65	42 Stat. L. 1282 Code of 1924 Page 527	Act No. 2137 1912
1.....	1	119.01	4240	1	1	1
2.....	2	119.02	4240	2	2	2
3.....	3	119.04	4241	3	3	3
4.....	4	119.05	4242	4	4	4
5.....	5	119.06	4243	5	5	5
6.....	6	119.07	4244	6	6	6
7.....	7	119.08	4245	7	7	7
8.....	8	119.09	4246	8	8	8
9.....	9	119.10	4247	9	9	9
10.....	10	119.11	4248	10	10	10
11.....	11	119.12	4249	11	11	11
12.....	12	119.13	4250	12	12	12
13.....	13	119.14	4251	13	13	13
14.....	14	119.15	4252	14	14	14
15.....	15	119.16	4253	15	15	15
16.....	16	119.17	4254	16	16	16
17.....	17	119.18	4255	17	17	17
18.....	18	119.19	4256	18	18	18
19.....	19	119.20	4257	19	19	19
20.....	20	119.21	4258	20	20	20
21.....	21	119.22	4259	21	21	21
22.....	22	119.23	4260	22	22	22
23.....	23	119.24	4261	23	23	23
24.....	24	119.25	4262	24	24	24
25.....	25	119.27	4263	25	25	25
26.....	26	119.28	4264	26	26	26
27.....	27	119.29	4265	27	27	27
28.....	28	119.30	4266	28	28	28
29.....	29	119.31	4267	29	29	29
30.....	30	119.32	4268	30	30	30
31.....	31	119.33	4269	31	31	31

UNIFORM WAREHOUSE RECEIPTS ACT—Concluded.

Uniform Law Section	W. Va.	Wis.	Wyo.	Alaska	D. C.	Phil. Isls.
	Barnes' Code 1923 Ch. 62 T Page 1367	Stats. 1923	Comp. Stat. 1920	Laws 1913 Ch. 65	42 Stat. L. 1282 Code of 1924 Page 527	Act No. 2137 1912
32.....	32	119.34	4270	32	32	32
33.....	33	119.35	4271	33	33	33
34.....	34	119.36	4272	34	34	34
35.....	35	119.37	4273	35	35	35
36.....	36	119.38	4274	36	36	36
37.....	37	119.39	4275	37	37	37
38.....	38	119.40	4276	38	38	38
39.....	39	119.41	4277	39	39	39
40.....	40	119.42	4278	40	40	40
41.....	41	119.43	4279	41	41	41
42.....	42	119.44	4280	42	42	42
43.....	43	119.45	4281	43	43	43
44.....	44	119.46	4282	44	44	44
45.....	45	119.47	4283	45	45	45
46.....	46	119.48	4284	46	46	46
47.....	47	119.49	4285	47	47	47
48.....	48	119.50	4286	48	48	48
49.....	49	119.51	4287	49	49	49
50.....	50	119.52	4288	50	50	50
51.....	51	119.53	4289	51	51	51
52.....	52	119.54	4290	52	52	52
53.....	53	119.55	4291	53	53	53
54.....	54	191.56	4292	54	54	54
55.....	55	119.57	4293	55	55	55
56.....	56	119.60	4294	56	56	56
57.....	57	119.61	4295	57	57	57
58.....	58	119.62	4296	58	58	58
59.....	59	119.63	4297	59	59	59
60.....	60	Omitted	Omitted	60	60	60
61.....	Omitted	"	"	61	61	61
62.....	"	"	"	62	62	62

AMENDMENTS TO SECTIONS 20, 40, AND 47 OF UNIFORM WAREHOUSE RECEIPTS ACT

Uniform Law	Ala.	Cal.	Colo.	Vt.
	Code 1923	Act 9059 Gen. Laws of Cal.	Laws of 1923 Ch. 188 Page 681	No. 51 Acts of 1923 Page 65
Amendment to Section 20				
Sec. 1.....	10526	1	1	1
Amendments to Sections 40, 47				
Sec. 1.....	40549	1	2	2
Sec. 2.....	10557	2	3	3

UNIFORM WORKMEN'S COMPENSATION ACT

Uniform Act Section	Idaho	Hawaii	Uniform Act Section	Idaho	Hawaii	Uniform Act Section	Idaho	Hawaii
	Comp. Stat. 1919	Laws 1915 Act 221		Comp. Stat. 1919	Laws 1915 Act 221		Comp. Stat. 1919	Laws 1915 Act 221
1.....	Sections	1	33.....	Sections	33	65.....	Sections	65
2.....	6213	2	34.....	6213	34	66.....	6213	66
3.....	to	3	35.....	to	35	67.....	to	67
4.....	6339	4	36.....	6339	36	68.....	6339	68
5.....		5	37.....		37	69.....		69
6.....		6	38.....		38	70.....		70
7.....		7	39.....		39	71.....		71
8.....		8	40.....		40	72.....		72
9.....		9	41.....		41	73.....		73
10.....		10	42.....		42	74.....		74
11.....		11	43.....		43	75.....		75
12.....		12	44.....		44	76.....		76
13.....		13	45.....		45	77.....		77
14.....		14	46.....		46	78.....		78
15.....		15	47.....		47	79.....		79
16.....		16	48.....		48	80.....		80
17.....		17	49.....		49	81.....		81
18.....		18	50.....		50	82.....		82
19.....		19	51.....		51	83.....		83
20.....		20	52.....		52	84.....		84
21.....		21	53.....		53	85.....		85
22.....		22	54.....		54	86.....		86
23.....		23	55.....		55	87.....		87
24.....		24	56.....		56	88.....		88
25.....		25	57.....		57	89.....		89
26.....		26	58.....		58	90.....		90
27.....		27	59.....		59	91.....		91
28.....		28	60.....		60	92.....		92
29.....		29	61.....		61	93.....		93
30.....		30	62.....		62	94.....		94
31.....		31	63.....		63	95.....		95
32.....		32	64.....		64	96.....		96
						97.....		97

UNIFORM WILLS ACT, FOREIGN EXECUTED

	Kan.	La.	Md.	Mich.	Nev.	Utah	Alaska
Uni- form Law Sec.	Revised Stat. 1923 Ch. 22	Act 176 of 1912	Code Art. 93 Act 1914 Ch. 238	Comp. Laws 1915	Laws 1915 Ch. 36 Rev. Laws 1919 Supp. p. 3373	Comp. Laws 1917	Laws 1913 Ch. 61
1....	203	1	334	11826	1	6324 (c)	1

(c) Changed.

UNIFORM WILLS ACT, FOREIGN PROBATED

	Ill.	La.	Wis.	Utah	Wash.	N. Y.
Uniform Law Section	Rev. Stat. 1923 Ch. 148	Act 92 of 1916	Comp. Stat. 1917 Sec. 2283	Comp. * Laws 1917 Secs. 7586-7588	Reming- ton's Code 1922, Secs. 1392-1393	Decedent Estate Law Secs. 44-45
1.....	29	1	Act	Act	Act	Act
2.....	30	2	similar	similar	similar	similar
3.....	31	3	in	in	in	in
4.....	32	4	principle	principle	principle	principle
5.....	33	5				
6.....	34	6				
7.....	Omitted	7				

REPORT OF EDUCATIONAL AND PUBLICITY COMMITTEE

To National Conference of Commissioners on Uniform State Laws:

In a preliminary report made to the Executive Committee last October, your Committee suggested two general objectives in the Educational and Publicity Field, namely:

1. Promotion of Principles of Uniformity in the Legislative Fields thought desirable.
2. Educational Work with reference to the Necessity of Uniform Interpretation of Uniform State Laws by the Judiciary in order to preserve Principles of Uniformity.

In an effort to attain these general objectives, an educational and publicity campaign was suggested towards the Public, to Law Makers, and to the Bench and Bar.

A general program was outlined, substantially as follows:—

1. Active Cooperation with the Publicity Committee of the American Bar Association for promotion of the affairs and objects of the mutual organizations.
2. Publications, of articles in Law Journals and Commercial Magazines.
3. Current News Items in the Press concerning the work of the Conference and its Committees.
4. Particular Educational and Publicity Work to Law Makers, in cooperation with the Legislative Committee.
5. Organization of State Bar Associations and even Local Bar Associations for their active support and assistance and for the establishing by them of permanent committees on Uniform State Laws.

The Committee has attempted to adopt and to follow the above program; some progress has been made, though comparatively small when considered with possible accomplishments under the full operation of such a program.

Some tentative efforts have been made towards cooperation with the Publicity Committee of the American Bar Association. Nothing definite has been accomplished.

Some articles have been published; some will be published in Law Journals. Notably, an article by our Chairman, Nathan William MacChesney in the American Bar Journal last spring on the Committee Work and Progress of the Conference; an article by Thomas W. Shelton, published August 20, 1925, in the Central Law Journal, entitled "The American Common Law in the Making."

There has been no difficulty in securing space in law journals for publication of articles concerning the work of our Conference, excepting, perhaps, our own American Bar Journal; the principal difficulty is to secure the devotion of the time and effort by our members necessary in the preparation of an article. Requests for articles have exceeded our ability to produce. In this regard, among our own members, volunteers will be joyfully received and enlisted in the service.

Little has been accomplished towards a systematized effort of educational and publicity work towards law makers (in cooperation with the Legislative Committee), largely through lack of sufficient funds; but, the Legislative Committee, itself, has nevertheless done much work along this line and is entitled to much credit for its continuous and devoted service.

Some work has been done towards securing active assistance of State Bar Associations; only a start has been made in this regard; some definite statistical matter in this regard is expected to be compiled before the next annual conference.

The best forward work of the Committee, so far as any has been accomplished, is in the line of current news items in the Press of our Country. The press and their representatives have been uniformly courteous; they have been receptive for news concerning the Conference and its work. They have shown a fine spirit of cooperation and aid. This was true at Philadelphia where representatives of the Press were ever at hand willing to aid. It was true at Chicago, where many articles concerning the Committee work of the Conference were featured or stated in news or storied

form. It has been true up to the time of this meeting at Detroit. To the Press, the Committee has sent out advance copy with memo statements concerning each Committee, its work, and its report, as well as general memo statements concerning the Conference, its objects and purposes; all for the purpose of securing general and special news items in the Press of our Country concerning our Meeting here at Detroit. This matter has been received courteously and with expressed thanks by the leaders or executives of the Press to whom it has been sent.

Some work has been done in the way of making addresses before Fraternal Organizations and the like, concerning the work of the Conference. Although the work of the Conference is sometimes considered dry and uninteresting as subject matter for an address before a general assemblage, there is no real foundation for any such consideration or belief. This was demonstrated by the splendid manner in which the address of Senator Chester I. Long was received at the dinner of the Chicago Bar Association last February, upon the subject of the function of Uniform State Laws in preserving the Dual Sovereignty of Government. Your chairman appropriated the subject matter of that address for some addresses before Rotary and similar organizations; although delivered with far less understanding, learning and eloquence, displayed and disclosed by Senator Long, the surprise was that unusual interest and welcome reception for such addresses were given and unusual newspaper reports, likewise. This statement is made for purposes of encouraging similar action by members of our Conference in their respective local communities.

The Executive Committee voted the sum of \$100 for this Committee at the Philadelphia Meeting; it increased this amount \$150 at the Chicago Meeting. The Committee had under consideration the preparation of some short and handy brochures, treatises, or pamphlets concerning the conference and its work, something like pamphlets prepared in the Americanization work of the American Bar Committee on Citizenship. But this program with the above recited program was too ambitious for the funds available. The Committee has not spent its appropriation; its expenses will probably not amount to \$50. It trusts that this

thrifty policy will be recognized; that the surplus that it has thus built may reside with the Committee for use in the year to come and that a similar appropriation be made for the ensuing year so that at least somewhat more adequate funds may be at hand.

Respectfully submitted,

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HARRISON A. BRONSON, Grand Forks,
North Dakota, Chairman.

REPORT
OF
SECTION ON UNIFORM COMMERCIAL ACTS

To the National Conference of Commissioners on Uniform State Laws:

The Section on Uniform Commercial Acts respectfully reports
That it has had under consideration the following subjects:

1—Further consideration and re-drafting of Uniform Sale of Securities Act.

2—Uniform Trust Receipts Act

3—Uniform Written Obligations Act

4—Uniform Interparty Agreement Act

5—Uniform Joint Obligations Act.

The Committee held a meeting at Chicago, Illinois, on February 26th and 27th, 1925, at which the following members of the Committee were present:

Messrs. Hinkley, Williston, Jenckes, Piatt, and Evans.

1—UNIFORM SALE OF SECURITIES ACT

The Committee can only report progress during the past year. An important feature of the Act is still unsettled, namely, the provision for prompt action by the State Securities Commission in case of certain special classes of securities which are obviously entitled to be sold without the necessity of complying with burdensome formalities. This difficulty will result in the Committee not presenting to the Conference a draft of the Act this year, though every effort will be made to arrive at a solution of this difficult provision.

One method consists in delegating the authority of the State Securities Commission to a Secretary to issue a temporary license for the sale of the security subject to further action by the Commission. This of course is open to two objections: delegating the function of the Commission to a subordinate officer; and also that in case of the temporary license to sell the securities the evils

we are attempting to prevent might take place by the sale of the entire issue, or a large part of it, under the temporary license.

The solution probably lies along the line of specifying certain classes of securities, which, while not exempt, are of such character that their sale might be permitted on the simple filing of required information and the further requirement that they are to be marketed by licensed dealers.

A Committee representing the Investment Bankers Association appeared before your Committee at its Chicago meeting and a draft of a Bill prepared by the Investment Bankers Association was furnished to your Committee.

The Chairman of your Committee has also been in correspondence with a representative of the National Association of Securities Commissioners who has expressed the hope that the Investment Bankers and the Securities Commissioners will be able to agree upon some method of meeting the difficulty. Until this difficulty is solved your Committee has deemed it inadvisable to present a revised draft of an Act, at the coming Conference.

2—UNIFORM TRUST RECEIPTS ACT

Your Committee at the meeting in Chicago on February 26th and 27th, 1925, had with them Professor Karl N. Llewellyn of Yale University Law School, who is engaged in the drafting of a Trust Receipts Act. This first tentative draft is herewith submitted together with Mr. Llewellyn's report as an appendix to this report. This draft will be given further consideration by the Committee, and submitted for the consideration of the Conference.

3—UNIFORM WRITTEN OBLIGATIONS ACT -

4—UNIFORM INTERPARTY AGREEMENT ACT

5—UNIFORM JOINT OBLIGATIONS ACT

These three Acts were submitted by the American Law Institute and were referred to this Committee. The first tentative drafts were considered at the last Conference and referred back to the Committee. They have been given further careful consideration by the Committee and some changes have been made, and your Committee submits herewith a second tentative draft of each of

these three Acts with notes thereon by Mr. Williston. These three Acts are submitted for the consideration and approval of the Conference.

Respectfully submitted,

JOHN HINKLEY, *Chairman*

SAMUEL WILLISTON

THOMAS A. JENCKES

A. T. STOVALL

W. H. H. PIATT

EARL W. EVANS

JOHN R. HARDIN

Members of Committee

FINAL DRAFT* OF

AN ACT TO VALIDATE CERTAIN WRITTEN TRANSACTIONS WITHOUT CONSIDERATION, AND TO MAKE UNIFORM THE LAW RELATING THERETO

1 SECTION 1. A written release or promise hereafter made
2 and signed by the person releasing or promising shall not be
3 invalid or unenforceable for lack of consideration, if the writ-
4 ing also contains an additional express statement, in any form
5 of language, that the signer intends to be legally bound.

1 SECTION 2. [*Uniformity of Interpretation.*] This Act shall be
2 so interpreted and construed as to effectuate its general pur-
3 pose to make uniform the law of those States which enact it.

1 SECTION 3. [*Short Title.*] This Act may be cited as the Uni-
2 form Written Obligations Act.

1 SECTION 4. [*Inconsistent Laws Repealed.*] All Acts or parts of
2 Acts inconsistent with this Act are hereby repealed.

1 SECTION 5. [*Time of Taking Effect.*] This Act shall take
2 effect. [—————].

REASONS FOR RECOMMENDING THE ENACTMENT OF THE ABOVE DRAFT ACT

The common law provided a method by which a release or a promise would become binding though gratuitous; namely, by the

*The Act was approved in this form.

attachment of a seal. Seals became obnoxious to many American lawyers because of their technicality, and because certain rules regarding discharge and variation of sealed instruments by parol frequently worked injustice. In consequence, some states totally abolished seals. In others, enactment was made that a seal was presumptive evidence of consideration. Such statutes very likely were intended to codify the common law, and in New Jersey it is held that such a statute means that consideration is conclusively presumed, but under precisely similar statutes it is generally held that the presumption is disputable.

The result of this legislation is to make the law of the several states in conflict on this important matter of commercial law.

One way of remedying the difficulty would be to seek to reinstate the seal in its former importance so far as the law of consideration is concerned, but the animosity to seals as such, the ease of adding them wrongfully to an instrument, the litigation over the question "What is a seal," make such a course undesirable. It seems, however, that so moderate a statute as that suggested in the accompanying draft should not arouse antagonism, and would frequently be of value.

FINAL DRAFT* OF

AN ACT RELATING TO TRANSACTIONS BETWEEN A PERSON ACTING ON HIS OWN BEHALF AND THE SAME PERSON ACTING JOINTLY WITH OTHERS, AND TO MAKE UNIFORM THE LAW RELATING THERE TO.

1 SECTION 1. A conveyance, release or sale may be made to or
2 by two or more persons acting jointly and one or more,
3 but less than all, of these persons acting either by himself or
4 themselves or with other persons; and a contract may be
5 made between such parties.

1 SECTION 2. No contract shall be discharged because after its
2 formation the obligation and the right thereunder become
3 vested in the same person, acting in different capacities as to
4 the right and the obligation.

*The Act was approved in this form.

1 SECTION 3. Nothing herein shall validate a transaction
2 within its provisions which is actually or constructively
3 fraudulent.

1 SECTION 4. [*Act not Retroactive.*] This act shall not apply
2 to conveyances, releases, sales or contracts, made prior to its
3 effective date.

1 SECTION 5. [*Uniformity of Interpretation.*] This act shall
2 be so interpreted and construed as to effectuate its general
3 purpose to make uniform the law of those states which enact it.

1 SECTION 6. [*Short Title.*] This act may be cited as the
2 Uniform Interparty Agreement Act.

1 SECTION 7. [*Inconsistent Laws Repealed.*] All acts or parts
2 of acts inconsistent with this act are hereby repealed.

1 SECTION 8. [*Time of Taking Effect.*] This act shall take
2 effect [—————].

REASONS FOR RECOMMENDING THE ABOVE DRAFT ACT

At common law a man not only could not contract with himself as an individual, but he could not contract with any unincorporated body of which he was a member. Moreover, if a man subsequently came into the position of being on both sides of the contract the contract was legally discharged. Thus, if one of the makers of a note becomes executor of the payee, the note as such is discharged. Courts have tried to prevent injustice from this rule so far as possible by various methods, but the results have not been wholly satisfactory, and it seems that such an act as that proposed would be helpful. The third section makes it clear that even constructively fraudulent contracts between trustees and executors and one of their number are not validated.

FINAL DRAFT* OF AN ACT CONCERNING THE DISCHARGE OF OBLIGORS BOUND FOR THE SAME DEBT OR LIABILITY AND TO MAKE UNIFORM THE LAW RELATING THERETO

1 SECTION 1. In this act, unless otherwise expressly stated,
2 obligation includes a liability in tort; obligor includes a

*The Act was approved in this form.

3 person liable for a tort; obligee includes a person having a
4 right based on a tort. Several obligors means obligors sever-
5 ally bound for the same performance.

1 SECTION 2. A judgment against one or more of several
2 obligors, or against one or more of joint, or of joint and
3 several obligors shall not discharge a co-obligor who was not
4 a party to the proceeding wherein the judgment was rendered.

1 SEC. 3. The amount or value of any consideration re-
2 ceived by the obligee from one or more of several obligors, or
3 from one or more of joint, or of joint and several obligors, in
4 whole or in partial satisfaction of their obligations, shall be
5 credited to the extent of the amount received on the obliga-
6 tions of all co-obligors to whom the obligor or obligors giving
7 the consideration did not stand in the relation of a surety.

1 SEC. 4. Subject to the provisions of Section 3, the obligee's
2 release or discharge of one or more of several obligors, or of
3 one or more of joint, or of joint and several obligors shall not
4 discharge co-obligors, against whom the obligee in writing and
5 as part of the same transaction as the release or discharge,
6 expressly reserves his rights; and in the absence of such a
7 reservation of rights shall discharge co-obligors only to the ex-
8 tent provided in Section 5.

1 SECTION 5. (a) If an obligee releasing or discharging an
2 obligor without express reservation of rights against a co-
3 obligor, then knows or has reason to know that the obligor re-
4 leased or discharged did not pay so much of the claim as he
5 was bound by his contract or relation with that co-obligor to
6 pay, the obligee's claim against that co-obligor shall be satis-
7 fied to the amount which the obligee knew or had reason to
8 know that the released or discharged obligor was bound to
9 such co-obligor to pay.

10 (b) If an obligee so releasing or discharging an obligor has not
11 then such knowledge or reason to know, the obligee's claim
12 against the co-obligor shall be satisfied to the extent of the
13 lesser of two amounts, namely (1) the amount of the fractional
14 share of the obligor released or discharged, or (2) the amount
15 that such obligor was bound by his contract or relation with
16 the co-obligor to pay.

1 SECTION 6. On the death of a joint obligor in contract, his
2 executor or administrator [or estate] shall be bound as such
3 jointly and severally with the surviving obligor or obligors.

1 SECTION 7. [*Act not Retroactive.*] This act shall not apply
2 to obligations arising prior to its effective date.

1 SECTION 8. [*Uniformity of Interpretation.*] This act shall
2 be so interpreted and construed as to effectuate its general
3 purpose to make uniform the law of those states which enact it.

1 SECTION 9. [*Short Title.*] This act may be cited as the
2 Uniform Joint Obligations Act.

1 SECTION 10. [*Inconsistent Laws Repealed.*] All acts or
2 parts of acts inconsistent with this act are hereby repealed.

1 SECTION 11. [Time of Taking Effect]. This act shall take
2 effect [—————].

REASONS FOR RECOMMENDING THE ENACTMENT OF THE ABOVE STATUTE

It is universally agreed that the common law in regard to joint obligations is likely to work injustice. The effect of it is not fully understood by the parties that enter into such obligations or by those to whom they are bound, and the results are often very technical. It is with a view to correct these injustices that the present draft statute has been prepared.

In most of the United States, statutes have somewhat changed the common law in regard to joint obligations. These statutes are, however, not uniform in character. They are aimed chiefly against the rule requiring the joinder of all joint debtors, that declaring a joint obligation discharged by either a judgment or release of a joint debtor, and that providing that on the death of a joint obligor his estate is freed from liability to the creditor.

Less often is any change made in the rights of joint obligees; and it will be noticed that a common provision in these statutes that the liability of joint debtors shall be joint and several does not affect the objectionable rule that the release of one discharges all. None of the statutes completely corrects the evils of the common law. A brief summary of the more important statutory enactments on the subject follows:

In *Alabama*, one or more joint debtors may be sued in equity without joining others. Joint contractors are bound jointly and severally.

In *Arizona*, joint contractors are bound jointly and severally, and judgment against one is no bar to suit against the others. Release of one is also no bar; but the court may order a plaintiff to bring in as defendants all that are jointly interested.

In *Arkansas*, joint obligations are made joint and several, and survivorship is abolished.

In *California*, where all promisors receive some benefit their promise is presumed to be joint and several, and so it is where the promise is in the singular but is signed by more than one. Except in the above cases the promise is presumed to be joint. Contribution is provided for and full performance by one joint obligor discharges the obligation as does performance to one joint obligee. A release of a joint obligor does not discharge others unless they are mere guarantors. [It will be noticed that the presumption of joint and several liability from the receipt of separate benefits by the promisors is contrary to the common-law rule.]

In *Colorado*, joint obligations are made joint and several. A release of one joint debtor does not discharge others except to the extent of the full proportionate share of the one released.

In the *District of Columbia*, all contracts entered into by two or more are joint and several. Survivorship is abolished and judgment is no merger as to those who are not parties to the suit.

In *Delaware*, obligations of two or more are made joint and several unless otherwise expressed.

In *Florida*, a promise in the singular signed by several is joint and several.

In *Illinois*, all joint obligations are made joint and several.

In *Indiana*, a joint obligee who refuses to join as plaintiff may be joined as defendant. Judgment against one joint debtor is no bar against others who are not summoned and do not appear. On the death of a joint obligor, the obligation is treated as joint and several.

In *Iowa*, action may be brought against any joint debtor or all joint debtors. If any die the action may be brought against any or all of the survivors, together with any or all of the personal

representatives of the deceased. Judgment against one joint debtor is no bar to actions against others.

In *Kansas*, a joint debtor may compromise his liability and others will not be discharged.

In *Louisiana*, joint obligations and several obligations, and obligations *in solido* are defined, but these terms have no common-law meanings.

In *Maryland*, representatives of persons jointly bound are bound severally. Judgment against one or more joint debtors does not discharge others who are not bound by the judgment.

In *Massachusetts*, representatives of a joint debtor who dies are bound severally. If an action is not prosecuted against all joint defendants because of the absence of some from the Commonwealth, or for any other sufficient cause, judgment against some is no bar to judgment against others.

In *Michigan*, the statute is like that of *Kansas*.

In *Minnesota*, joint obligations are made joint and several. The discharge of one joint debtor operates as payment of his share of the debt according to the number of the debtors aside from sureties.

In *Mississippi*, discharge of one joint debtor does not discharge others, but if the debtor discharged has paid more than his ratable share, the whole payment will be credited on the debt. If he has paid less than his ratable share, then that whole share shall be credited. A creditor may sue one or more joint debtors and judgment against one does not discharge the other.

In *Missouri*, joint obligations are made joint and several. A joint debt survives against representatives of a deceased debtor as well as against the survivors, and a joint debt may be enforced by action against any one or more of the debtors.

In *Montana*, a release of one joint debtor does not extinguish the obligation of any others; but a discharge of one amounts to payment of the proportionate interest of the debtor discharged. Where all the promisors receive some benefit their promise is presumed to be joint and several. [This provision is identical with that in *California*.] A promise in the singular signed by several creates a joint and several obligation.

In *Nebraska*, on the death of one joint debtor his estate is severally liable.

In *Nevada*, a release of one joint debtor discharges only the released debtor's portion of the debt estimated upon the number of such debtors.

In *New Jersey*, joint debtors are liable severally, and on the death of one joint debtor his representatives are bound.

In *New York*, a creditor may compromise in writing with one joint debtor, and that debtor only will be discharged; but other joint debtors will have the same defenses they would have had if one had not been discharged, and the right of contribution is not impaired. When one or more partners have not been joined in an action against other partners, against whom judgment is rendered, those not joined may be sued if the judgment is not satisfied.

In *North Dakota*, a similar provision is made in regard to partners not joined in an action, and it is also more broadly provided that if judgment goes against one or more joint debtors, others not joined may be summoned into court to show cause why they should not be bound by the judgment.

In *Ohio*, there is the same provision as in *Kansas*, and it is also provided that the estate of a deceased joint debtor shall be liable.

In *Pennsylvania*, judgment against one or more joint debtors is no bar to an action against others.

In *Rhode Island*, judgment without complete satisfaction against part of the defendants in action is no bar to future action against such defendants against whom the writ in the original action was not served. [It will be noticed that this provision does not cover a case where some joint debtors were omitted altogether as defendants in the first suit.] The estate of a deceased joint contractor is liable as if the contract had been several.

In *South Carolina*, as in *New York*, a compromise in writing with one joint debtor may be made, and he only will be discharged. Others may be sued, but will have the same defenses they would have had if one had not been discharged, and their right of contribution is not impaired.

In *South Dakota*, obligations and rights are presumed to be joint.

This presumption in case of a right can be overcome only by express words. Where all who unite in a promise receive a benefit, their obligations are presumed to be joint and several. [It will be observed that these provisions directly reverse the rule of the common law which makes interest important in case of a joint right, but immaterial in case of a joint duty.] It is also provided that a promise in the singular signed by several persons is joint and several.

In *Tennessee*, all or any number of persons jointly liable may be sued. Joint obligations are made joint and several, and the debt survives against deceased obligors. Dismissal of a suit or failure to recover against one, does not prevent recovery against other defendants who may be liable.

In *Utah*, release of a joint debtor does not discharge others beyond the just proportion of the debt for which the released debtor was liable or which he has paid. If judgment is rendered against one or more joint debtors, others not joined may be brought into court without summons to show cause why they should not be bound by the judgment.

In *Vermont*, representatives of a deceased joint obligor are liable. The discharge of one joint contractor may be made without impairing the creditor's right to the residue of the debt, but such a discharge has the effect of payment by the party discharged of his equal part of the debt, according to the number of debtors aside from sureties. Recovery of an unsatisfied judgment is no bar to suit against other joint debtors.

In *Virginia*, the creditor may make a compromise with one joint debtor, or release him without discharging others. In such a case credit shall be given for the full share of the party released unless he is a surety, in which case credit shall be given for the sum actually paid.

In *Washington*, a joint debtor who is made defendant on a suit, but not originally served with process, may be summoned to show cause why he should not be bound by a judgment given against others.

In *Wisconsin*, there is a provision similar to that in Washington, and it is also provided that an action begun against joint debtors

shall not abate by the death of one of them. The estate of a deceased joint debtor is severally liable and may recover contribution. The release of one discharges others only as to the amount which in equity the party discharged ought to pay as between himself and the other joint contractors, provided that if he pays more than his share, or, if being a surety he pays anything, the amount paid shall be credited, and a principal debtor cannot be released without discharging sureties.

In *West Virginia*, representatives of a deceased joint debtor are liable as if the debt were joint and several.

(References to the volumes in which these statutes are contained may be found in Williston on Contracts, Section 336).

FIRST TENTATIVE DRAFT OF A UNIFORM TRUST RECEIPTS ACT

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DRAFTSMAN'S STATEMENT

Appended hereto is a draft of a proposed Uniform Trust Receipts Act. The draft embodies the points agreed upon at the meeting of the Committee in Chicago and a few points not yet raised in committee.

The simplest method of presenting the scope of the draft is by reference to the existing law. At the present time trust receipts are used chiefly in three situations. When a banker advances the purchase price of goods imported by his customer, taking title in himself, and thereafter releases possession of the goods to the customer, a trust receipt is commonly required of the customer. That receipt admits ownership to remain in the banker, but reserves liberty to manufacture or sell, or store, etc., to the customer. It was in these import transactions that the instrument took its origin and has been most highly developed. Because courts have desired to uphold the use of the document in these transactions, without running counter to the general rules on secret liens, the weight of authority at the present time is emphatically that the lender's rights under a trust receipt are valid *as against creditors* of the borrower, but are thus valid *only where title to the goods came into the lender not from the borrower, but from some other person*. This rule clearly is modelled upon the facts of these import transactions, in which the banker pays a foreign seller the price of the goods, mostly by a ninety days acceptance, and releases the goods to his American customer, the buyer, pending maturity of the acceptance.

But even those courts which recognize the validity of the trust receipt as against creditors are in general, agreed that a *bona fide purchaser, including a pledgee*, from the importer *takes free of the lender's claims to the goods*.

We thus have a situation which is not wholly satisfactory to either lenders or creditors. The lender turns the goods over to his borrower in order to have them sold in the course of business; and the law forces him to take the risk that such goods will be not *sold*, but *pledged* to secure other indebtedness. Creditors of an importer, on the other hand, in the event of their debtor's insolvency, have no way whatever of knowing how much of his goods will be seized

by preferred bankers, nor of the extent of the outstanding obligations which have such preference. This last evil becomes acute when the trust receipt method of doing business is carried over into purely domestic trade, such as the retailing of automobiles. Indeed, it may be suggested that the widespread trouble with fraudulent practices in that business offers one of the most potent arguments in favor of clarifying the law of trust receipts.

In still another aspect is the law, at present, unsatisfactory to the lender. He must now at his peril make sure *that the title comes to him originally from some other person than his borrower*. If the shipper abroad happens, despite a difference in name, to be in fact the same firm as the banker's customer on this side, the banker is likely to find his supposed preference worthless. This would no longer be so, under the proposed act.

Even more difficulty, under this same rule, is felt in regard to the *release of pledged documents* for sale, exchange, or other temporary purpose. Whether these documents be negotiable instruments, investment securities, or title documents representing goods, it is constantly necessary for the customer to regain possession of them, in order to make delivery on contracts already concluded, or to get temporary control of goods for purposes of storage or shipment, or in some other fashion to make the pledged chattel work during the life of the pledge. But at the present time the validity of the lender's claim to such goods is exceedingly indefinite in extent, and vanishes altogether at some indefinite but very early period—after one day, or two, or four. It may safely be said that that period is too short, in a great body of cases, for the purpose for which the pledge was temporarily released to be accomplished in safety to the pledgee. The proposed draft cures this situation by fixing a definite period, instead of an indefinite one, and by making that period long enough to cover any ordinary transaction, without leaving it long enough to afford a debtor any real opportunity to mislead creditors by his apparent ownership.

The Act thus opens up to lenders, *without filing*, a new field of useful security. But there is no attempt in the Act to depart from the present principle of case law that this security is limited to a brief period, and is valueless against purchasers including pledgees. The Act assumes what is the understanding of lenders who use

trust receipts: that the trust receipt is intended to give security not against dishonesty, but only against honest insolvency of the debtor.

But *where the transaction is of longer duration*, so that creditors might well be misled by the debtor's apparent prosperity, *the lender's rights are made dependent upon filing*. He is thus forced to put all interested parties on notice of the facts of ownership of his goods. This is at present true in only a few states in which trust receipts are good at all. But *in return, this filing*, for the very reason that third parties are thereby put on notice, *is made to give the lender a security* which he does not now have, by protecting him against pledgees and transferees of the goods not in the regular course of marketing them. Here again, therefore, the draft gives new protection to all parties. That additional protection against pledgees does not, of course, extend to pledgees of negotiable documents, but only of the goods.

One last thing needs mention: the trust receipt is not intended to be used as a chattel mortgage often is—to give new security for old debts. The Act is limited to cases in which goods already pledged are surrendered to the debtor or in which new advances, such as purchase price payments, are made by the lender on the security of the goods. It is because of this limitation, of this fact that every trust receipt transaction means an increment of value to the debtor's assets as great as the lien sought to be taken or reserved, that it appears so thoroughly fair to protect the lender for the temporary period before filing. It is the very loan in question which makes possible the addition of the goods to the borrower's estate, and only the goods thus added are subjected to the lien.

The whole theory of what has been said will be seen to be that goods or documents, although they stand security for a loan, are yet not to be kept out of the course of trade if regular machinery can be devised which will prevent their being so kept. The trust receipt has attempted to fill that need. Its major purpose has been to permit the sale of the very goods under lien, in order to retire the very obligation secured by the lien. For this reason any act should, and the present draft does, limit itself to goods of such character that the *purchaser in due course* can always take free of the lender's claims *to the goods*.

But the draft gives rather wide powers to the lender to follow the *proceeds* of the goods in the event of insolvency. And it contains a criminal provision against fraudulent diversion of goods or proceeds. But both of these provisions require careful examination and limitation, because of the prevalent practice under which the lender does not, in fact and true understanding, expect his borrower to account.

THE OHIO STATUTE OF TRUST RECEIPTS

The recent Ohio statute on trust receipts, reprinted in full and commented on by Karl T. Fredericks in the *Acceptance Bulletin* for May, 1925, p. 13, calls for comment in four respects:

1. It is limited to imports for sale or manufacture, and to readily marketable staples. In this it coincides in policy with the present draft: being limited to *goods intended to be put into commerce*. But the present draft covers also negotiable instruments and stock certificates of the sort commonly released from collateral pledge for a day or two, against later substitutions.

2. It is limited to transactions under which the lender advances all or part of the purchase price, at the instance of the borrower. This rule is clearly modelled on the original import transaction described above, and is narrower than that of the present draft, which, as has been indicated, covers also the case of release from pledge.

3. It requires filing not of the individual instrument, but of an affidavit—in substance—that a particular borrower is doing business with a particular lender on a trust receipt basis—which affidavit then validates all trust receipt transactions between those parties during three years. The affidavit will be good notice to creditors *to beware*, but will not serve as notice as to what specific goods are under trust receipt, nor for how much.

(a) In this regard it should be noted: that the practice of using up trust receipt goods—e. g., by spinning cotton, so that its identity is lost—makes the clearing of the record, as to individual receipts, a little difficult at times. This difficulty might be met by limiting validity of the record, in the absence of renewal, to the period of maturity of the obligation plus thirty days. It is of course also met by the Ohio provision,

(b) It should also be noted that trust receipts, or the collateral agreements taken in connection with them, purport to hold the security for the advances in relation *to those goods*, and also any and all other obligations to the lender. If a provision of the Ohio type is to be incorporated, it ought surely to be made express that the security—despite such a provision—is good only to the extent that the advances affected the particular goods concerned. Else a hundred dollar new advance on a ten thousand dollar shipment could be made the means of a secret lien for practically ten thousand dollars additional of old indebtedness.

(c) It is altogether possible to work out an alternative filing scheme, with a lesser protection under such general filing as the Ohio statute provides, such protection to be limited according to the information really made available to third parties by such filing; and a greater protection for more particularized filing.

4. The Ohio statute seems to protect the lender against pledgees from the borrower—which, in view of the prevalent practice of pledging documents of title and other securities, seems to your draftsman wholly unwarranted, on the limited information available from the record.

A DISCUSSION OF INDIVIDUAL POINTS OF THE DRAFT

At the risk of repetition, the main individual features of the draft are here discussed.

1. *What transactions fall within this Act?*

(a) The Act covers all those transactions which are at present technically regarded as trust receipt transactions. That is, those transactions in which a security title passes to the lender, not from his borrower, but from a third party who is selling to the borrower, the goods being released to the borrower under reservation of the security title. The requirements of this first class of transactions are exceedingly technical; but the lines have been drawn largely in an effort to make the transaction valid without filing in spite of possession in the borrower as apparent owner. The lines therefore become unnecessary, as soon as filing is provided for.

(b) The Act also covers a second class of transactions not covered by present trust receipt law, but as to which the same needs are felt: that of release of pledged goods or documents from

the possession of the pledgee in order that they may be put into commerce by the pledgor. Provision needs to be made, by which this may safely be done; and the case law is at present too indefinite to afford real security to the lender.

(c) The Act also covers a third class of transactions, in which new advances are made by a lender against documents which are left in the borrower's hands, and under which title has not passed, technically, into the lender from a third party. Here, again, the present law is inadequate to make the transaction safe; yet enabling provisions are needed. The Act does *not* cover such new advances when made against *goods*, rather than against *documents of title* or negotiable instruments. Such an advance against *goods* falls, in all respects, within the ordinary use of either pledge or chattel mortgage or contract for either, and business practice affords no evidence that it needs to be included. Trust receipts (apart from those affecting pledged stock certificates or bonds) seem to be used almost entirely in reference to goods which at the outset of the transaction are *in process of shipment or storage*, and as to which documents of title are therefore available.

The Act also covers any sale for security with agreement to resell, which falls within classes (b) or (c) as to its other incidents.

2. *Types of subject matter covered.* The Act covers documents of title to goods, and goods, and negotiable instruments or stock certificates. But it is urged by the draftsman that it should cover none of these *except where they are in the borrower's hands for mercantile purposes or for the purpose of being manufactured and then sold*. The function which the trust receipt has been invented to fill is to permit a lender to retain his security interest while the borrower is proceeding, out of the security itself, to realize the amount of the loan and, if possible, some profit. The basis on which the transaction has been invented is the very proper assumption:

(a) that much business must be done on credit:

(b) that commercial bank loans can be made with less danger to the credit structure of the country and more cheaply for borrower and consumer, when well secured;

(c) that security which is intended to liquidate the loan by its own resale can properly be treated as a special class of particularly valuable and therefore favored security; and

(d) that lenders cannot as adequately market the subject matter of the security as can the merchandizers whom they are financing, and should be permitted to retain their interest as secured lenders while the borrower seeks his own profit and the lender's payment out of reselling the goods.

Thus it is now universally the law, and will continue so under the present draft, that *purchasers in due course of business*, even though on notice of the trust receipt, take free of the lender's claims so far as regards *their title to the goods*. Such is the very purpose of the institution. Sale in the course of business is of its essence. The lender may have a claim to have the purchase price paid over to him—that is a different question.

It is therefore believed unsound and unnecessary to include under a trust receipt transaction any investment in *fixed capital*, such as machinery to be installed in the factory of the borrower (as opposed to machinery to be resold by the borrower); or any other type of goods used as *productive capital* (such as horses on a farm, tractors on a farm, or trucks to be used by a mercantile concern or a trucking company). The transactions should be limited to documents or goods on which the borrower proposes to realize *by sale*, whether it be bonds in the hands of an underwriter, automobiles in the hands of a retailer, coffee in the hands of a roaster, or cotton in the hands of a spinner. No distinction is, therefore, taken in the Act between the *import* transactions which originally led to the invention of the trust receipt, and purely *domestic* transactions. And the release of pledged property to a borrower for resale (or for substitution of security) is included in the Act, because such release has exactly similar functions in commerce and its financing.

3. *Limitations on protection granted to the lender.* For reasons given above, the lender's rights *in the goods* are subordinated to those of any purchaser in the ordinary course of business, whether or not the instrument has been filed. Where such purchaser has actual knowledge of a restriction on the borrower's power of disposition (such as, that he is not to sell except for cash, or not to

sell on credit unless the buyer's credit be approved by the lender), such purchaser is, of course, not a purchaser "in the ordinary course."

Where the receipt has *not* been filed, pledgees from the borrower, and mortgagees from him, and creditors receiving payment in goods are also protected. This seems almost universally to be the present law. Such a provision will meet with very little objection on the part of lenders. It has long been recognized that release of documents or merchandise on trust receipt involves the lender's taking the full risk of the honesty of the borrower. As is said above, the risk against which the trust receipt is intended to give protection is *not the risk of dishonest dealing, but the risk of honest insolvency.*

Where, however, the trust receipt has been filed, it is proposed in the Act to limit the rights of pledgees, mortgagees and creditors receiving payment in goods, by protecting the lender against all persons except purchasers in the due course of business. This additional protection will be welcome to lenders and, in view of the filing of the receipt in an available place, will work no hardship to others. Through the requirement of filing, it thus becomes possible to at once give more protection to the lender, and to warn other creditors of the existence of the lien.

4. *The filing of receipts—when required.* The transactions in which trust receipts are now and in all likelihood will continue to be used, fall into two main classes.

(a) The first class may be called temporary transactions. These involve the withdrawing of one document with the purpose of substituting another equivalent document, or withdrawal for the purpose of immediate sale and delivery, or for the purpose of making delivery under a contract already concluded. Instances are the withdrawal of bills of lading in order to see goods through the customs house, or to examine or fumigate or store or trans-ship the goods, or the withdrawal of warehouse receipts for similar purposes, or the withdrawal of negotiable securities with intent to substitute equivalent securities after the conclusion of a pending transaction. In such cases, it will be observed that the goods or securities, although they constitute a temporary addition to the estate under the borrower's immediate control, have yet been permitted to come into that estate *only on*

condition that the security therein be retained. It is the lender who made the addition possible; and he did so only on an express bargain for continued security. If the goods do not remain in the estate long enough to reasonably create a fictitious appearance of prosperity, it therefore seems in all respects fair to permit the lender's security to continue. And such is the policy, on exactly similar facts, of the Conditional Sales Act, which gives the conditional seller ten days within which to file. Any other course severely hampers the liquidation of the loan by the party best equipped to liquidate it.

In all but exceptional cases, ten days is sufficient for such purposes. It is substantially longer time than can be allowed with any safety under the present case law on temporary release of pledged goods or securities. It also has the advantage of uniformity with the Conditional Sales Act, which is desirable. As indicated above, the security thus given is *only against creditors, not against purchasers or pledgees*. As to purchasers in course of business this is the clear intent of the transactions. As to pledgees, it is the existing case-law, which is well known to and understood by lenders. To protect against pledgees without giving them the means of notice, would be unfair and contrary to modern developments of policy, particularly since pledge in such cases commonly takes the form of pledge of negotiable documents of title.

Bankers are sometimes tempted to regard ten days as insufficient because of a misapprehension as to the effect of a trust receipt. Thus goods may be released for immediate delivery under an existing contract of sale on credit. The banker does not regard the transaction as closed until he has received the proceeds of such sale, say thirty days after shipment or arrival. But both the borrower's and the banker's *interest in the goods* is completely gone as soon as delivery on straight bill of lading, consigned to the ultimate buyer has been made. So far as concerns *lien on the goods*, the trust receipt has, therefore, served its purpose. As regards *claims to the proceeds*, the receipt can have no operation until such proceeds are received by the customer (or notice given to the purchaser on credit). A limit of ten days' security *in the merchandise* is, therefore, ample to

cover the needs of such a transaction. And it will be observed that the language of the Act is such as to have this effect, without barring the lender's rights in proceeds, when and as received.

(b) The second class of transactions covered by trust receipts involves what may be thought of as *permanent possession* in the borrower. The lender may bargain that he is entitled to reenter at any time; but he does not in fact anticipate ever seeing the documents or goods again. He expects them to be used in the borrower's business, in due course, and expects such use to result in retiring the loan. This may involve exhibition of the merchandise (such as automobiles) in the borrower's showroom; or it may involve a long term processing during which the identity of the goods is maintained, as in the tanning of hides; or it may involve, either at once or after considerable time, the loss of identity of the goods, as in the spinning of wool or cotton, or the roasting of coffee.

It is, in any event, clear that the operation of the trust receipt must be limited, for reasons not of law but of fact, as soon as the goods or their specific proceeds are no longer traceable. But it is also felt that, once the need for unlogged accomplishment of temporary transactions has been met, creditors are entitled to information that merchandise or securities in the possession of the borrower is subject to prior claims. Filing is therefore required, to insure validity of the lender's security after ten days. As indicated above, this filing has the effect of giving the lender additional security not possible without filing, by protecting him against pledgees, mortgagees, and sales in payment of debts. It is clear, however, that such cannot be the case where the pledge or mortgage is of negotiable documents; and it is urged by the draftsman that the same situation should hold where the goods are deposited by the customer in an independent warehouse and a negotiable warehouse receipt is taken and later improperly pledged—even though the goods are originally held under a filed trust receipt.

5. *Identifiable proceeds.* The fact that the lender is in no way interested in merchandising profit; the fact that his percentage of gain is calculated at six to eight percent a year, and not at twenty

percent and up on each turnover; and the desirability of a sound and cheap credit structure—all these lead to the conclusion that identifiable proceeds of goods, under a valid trust receipt, should, as far as traceable, be reserved to the lender. On the other hand, where it appears clearly from the transaction, or the actions of the parties, that the lender was, *in fact*, willing to become an unsecured creditor after a certain part of the credit term had expired—this willingness should result in favor of other creditors where possible. It is believed that a fair compromise is reached in the draft by reserving to the lender due power to claim unpaid accounts arising out of his identifiable merchandise; and to claim specific monetary proceeds of sales of his merchandise; and, finally, whenever no waiver of accounting appears, to claim merchandise which can be shown to have been exchanged for, or purchased with the proceeds of the lender's goods.

6. *Fraudulent diversion.* A criminal provision is incorporated in the Act to cover fraudulent diversion of the lender's goods or the proceeds thereof. But it frequently happens that the receipt, as drawn, contains detailed provisions for accounting, which the parties fully understand *not* to be intended for enforcement. It is, therefore, provided by the draft that waiver of accounting, as to the criminal provisions, may be found either expressly or impliedly, and especially may be found in the prior course of business between the parties. While bankers, at the present time, are endeavoring to "educate" their customers as to the desirability of immediate accounting, even where the borrower's credit standing is prime, none the less the practice of permitting a borrower in good standing to go without accounting, and to require of him merely the retirement of the advance at maturity, is so widespread as to make such a provision on waiver essential.

One point not discussed in Committee requires attention:

7. *Place, manner, and formal requisites of filing.* The most inclusive section of the present draft, the one which contains most meat and most hidden difficulties, is that on *place and manner of filing*. In the Chattel Mortgage Act some eighteen sections are devoted to the material covered by this single seemingly unimportant section—almost all of Part VI of that Act, together with odds and ends of other scattered sections.

The reasons for double filing (which is required under the Chattel Mortgage Act), where necessary, apply with particular force to trust receipts. The protection in law sought by filing is primarily a protection to lenders *against attaching* creditors—which requires filing at the situs of the goods. But the protection in fact which is sought to be given by the legal requirement of any filing at all, is a protection to *prospective* creditors against secret liens—which requires filing at the business headquarters of the debtor, where any credit investigation will be made.

The provisions of the Chattel Mortgage Act with regard to *manner* of filing are obviously applicable.

If the proposal above, limiting this Act to goods intended for resale, is approved, some of the filing provisions of the Chattel Mortgage Act, notably that regarding the place of filing a mortgage of fixtures, will of course not be applicable under this Act.

It has been discovered by automobile finance companies operating in Ohio, where trust receipts (up to within a few months) had to be filed like chattel mortgages in order to be valid, that, as long as the document was *in the form of a trust receipt* and not in the form of an ordinary chattel mortgage, the credit standing of the borrower was not impaired by the filing. For this reason, it is expressly provided in the section on form that, where the document is so entitled, the filing clerk shall note on the margin of his record that the instrument is in the form of a trust receipt. This will give no additional validity to the filing, but will prevent the mere fact of filing from reflecting on the borrower's credit.

Where the Chattel Mortgage Act is not in force, it is believed to be of vastly more importance to have trust receipts and chattel mortgages found in the same book at the same place, than it is to have trust receipts alone governed by the filing requirements of the Uniform Chattel Mortgage Act. But provision is and must be made that the individual trust receipt shall not require the affidavits and other formal requirements now demanded by many states of chattel mortgages; both points are therefore expressly covered in the present draft.

One question of statutory construction remains. If the Trust Receipts Act should be adopted by a given state before the Chattel Mortgage Act is adopted, would the language of the Trust Re-

ceipts Act section on place and manner of filing be construed to incorporate the subsequent changes in chattel mortgage law? It is believed that it would. But in order to make such construction easier, the language is incorporated: "as may from time to time be provided in the case of chattel mortgages." It is believed that this reference to and incorporation of the rules on another class of cases is legitimate and constitutional.

Respectfully submitted,

Yale Law School.

K. N. LLEWELLYN.

July, 1, 1925.

FIRST DRAFT OF A UNIFORM TRUST RECEIPTS ACT

For discussion, see the Draftsman's Report, supra. Definition of important terms in Section 1 will be found in the following Sections.

1 SECTION 1. What Constitutes Trust Receipt Transaction.

2 A trust receipt transaction within the meaning of this Act means
3 any transaction between a lender and a borrower whereby

4 (a) a lender holding a security interest in goods or documents
5 delivers such goods or documents to the borrower against a
6 trust receipt; or

7 (b) a lender advances new value in reliance upon the transfer
8 to such lender of a security interest in documents actually
9 shown to the lender, but retained by the borrower against a
10 trust receipt;

11 provided, however, that only transactions shall be included under
12 which the borrower receives or retains possession of goods or docu-
13 ments for the purpose of selling them, or negotiating their sale, or
14 manufacturing them for sale, or for some purpose or purposes pre-
15 liminary to or necessary to their sale.

1 SECTION 2. What Constitutes a Trust Receipt.

2 A trust receipt within the meaning of this Act is an instrument
3 signed by a borrower receiving or retaining possession of goods
4 under a trust receipt transaction, whereby such borrower ac-
5 knowledges title or other security interest in such goods to pass to
6 or remain in the lender.

(Note: The language of Sections 1 and 2 as drawn excludes the ordinary chattel mortgage and conditional sale, but may include a conditional sale for resale.)

1 **SECTION 3. Subject Matter of Trust Receipt Transaction.**

2 “*Goods*” within the meaning of this Act means merchandise of a
3 sort sold or manufactured for sale in the ordinary course of trade.

4 “*Document*” within the meaning of this Act means any document
5 of title to goods, or any bond, certificate of stock, negotiable instru-
6 ment, or other credit or investment instrument of a sort marketed
7 in the ordinary course of trade, of which the borrower, after the
8 trust receipt transaction, appears to be the owner.

1 **SECTION 4. Form of Trust Receipt.**

2 A trust receipt must be in writing, signed and delivered by the
3 borrower.

 (*Note:* An oral contract to give a trust receipt should probably be en-
forceable after advances made in reliance thereon, but the case will arise
only in very exceptional circumstances)

1 **SECTION 5. Validity Between the Parties.**

2 Between the lender and the borrower the terms of the trust re-
3 ceipt transaction shall, save as otherwise provided by this Act, be
4 valid

5 (a) with reference to the designation of the goods and of the
6 obligation secured;

7 (b) with reference to time and method of reimbursement;

8 (c) with reference to the buyer's liberties in use and disposi-
9 tion of the goods or documents, and his duties with reference to
10 them or their proceeds;

11 (d) with reference to the lender's rights and powers in relation
12 to retaking possession and sale;

13 except that no provision for forfeiture of the borrower's interest in
14 goods, documents or proceeds, beyond the amount of the obligation
15 secured, interest, commissions and expenses, shall be valid.

1 **SECTION 6. Validity Against Third Parties.**

2 1. The reservation of a security interest in the lender under a
3 trust receipt transaction shall be valid, for ten days after the trans-
4 action, as against creditors of the borrower, with or without notice,
5 but not as against purchasers for value and without notice.

6 2. Such reservation shall, after ten days, be void as against
7 purchasers for value and without notice, and as against lien credit-
8 ors who become such without notice, before the trust receipt is
9 duly filed.

10 3. But in all cases, whether or not a trust receipt has been filed,
11 a purchaser for value and without notice in due course of business,
12 of such goods or documents, or proceeds thereof, not however in-
13 cluding a pledgee, mortgagee or transferee in bulk or in payment of
14 an antecedent claim, shall hold the subject matter of his purchase
15 free of such reservation.

1 **SECTION 7. Lender's Rights to Proceeds.**

2 Where under the terms of the trust receipt transaction the
3 borrower is to account to the lender for the proceeds of the goods
4 or documents, the lender shall as against all parties as to whom his
5 reservation of security interest was valid be entitled

6 (a) to any debts owing to the borrower by reason of the trans-
7 fer of the goods or documents, and any specific monetary pro-
8 ceeds of the goods or documents, whether or not the provision
9 for such accounting has been impliedly waived; and

10 (b) to any other identifiable proceeds of the goods or docu-
11 ments, but only if the provision for such accounting has not been
12 waived expressly or impliedly.

13 But paragraph (a) shall not be construed to invalidate any pay-
14 ment made by any purchaser in due course of business to the bor-
15 rower, whether or not the trust receipt is duly filed, in the absence
16 of actual notice to such purchaser of the lender's directions as to
17 such payment.

1 **SECTION 8. Wilful Violation of Trust Criminal.**

2 Fraudulent or malicious destruction, concealment, injury or
3 diversion of goods, documents or proceeds in violation of the bor-
4 rower's duty to the lender, not waived by the lender, shall be a
5 crime, and shall be punishable in like manner as embezzlement.

1 **SECTION 9. Waiver of Borrower's Duties.**

2 The lender may, expressly or impliedly, and before or after the
3 event, waive any or all duties of the borrower with reference to
4 keeping, using, selling or accounting for the goods, documents or
5 proceeds; and such waiver may be found in the prior course of
6 business between the parties.

(This modifies Sections 5, 7, and 8.)

1 **SECTION 10. Liens in Course of Business Good Against Lender.**

2 Liens arising out of contractual acts of the borrower with refer-
3 ence to processing, storing, shipping or otherwise dealing with the

4 goods in the usual course of business looking toward their sale,
5 shall attach against the interest of the lender as well as against the
6 interest of the borrower, whether or not the trust receipt is filed;
7 but this section shall not of itself obligate the lender personally on
8 any debt secured by such lien.

1 **SECTION 11. Reentry by Lender.**

2 1. Where the lender is under the terms of the transaction en-
3 titled to take possession of the goods or documents at will, he may
4 take such possession without legal process wherever that is possi-
5 ble without breach of the peace or of the criminal law.

6 2. Possession by the lender shall have the effect of notice to all
7 third parties of the lender's rights.

8 3. After possession taken, the lender shall hold the goods and
9 documents so taken with the same rights, and under the same
10 duties, as may from time to time be prescribed by law for a pledgee.

1 **SECTION 12. Filing.**

2 1. A trust receipt shall be duly filed as required by this Act,
3 when filed in such manner and such filing office and for such fees
4 as may from time to time be prescribed for the filing or recording
5 of a chattel mortgage.

6 2. When so filed, the filing shall be entered and indexed in the
7 same book and in like manner as an instrument of chattel mort-
8 gage; but the filing officer shall, in the case of a trust receipt ap-
9 pearing in terms on its face to be such, enter on the margin a nota-
10 tion that the instrument is filed as a trust receipt.

11 3. Nothing in this section shall require a trust receipt, in order
12 to be admissible for filing, to conform to any formal requirement
13 save that prescribed in subsection 2 and in Section 4.

1 **SECTION 13. Duration of Filing and Refiling.**

2 1. The filing of a trust receipt shall be valid until thirty days
3 after the maturity of the obligation secured thereby; but shall in
4 no event be valid for a longer period than that prescribed for the
5 filing of a chattel mortgage.

6 2. At any time before expiration of validity, a trust receipt may
7 be refiled by copy, together with a statement signed by the lender
8 that the obligation secured is still unsatisfied, and giving the matur-
9 ity or new maturity of such obligation; and such refiled shall be
10 filed, indexed, entered, and valid in like manner as an original filing.

1 SECTION 14. **Limitations on Effect of Filing.**

2 A trust receipt, when filed, shall be valid as against any pur-
3 chaser or lien creditor only as to goods, documents or obligations
4 as to which the instrument as filed would put a person of reasonable
5 diligence on inquiry; and shall in no event be valid beyond the
6 extent of new value given in reliance on the trust receipt transac-
7 tion.

1 SECTION 15. **Definitions.**

2 "*Lender*" means the person having or taking a security interest
3 in goods or documents under a trust receipt transaction, and any
4 successor in interest of such person.

5 "*Borrower*" means the person having or taking possession of
6 goods or documents subject to the trust receipt, under a trust
7 receipt transaction, and any successor in interest of such person.

8 "*New value*" means new advances or loans made, or new credit
9 actually given, or new obligation present or contingent incurred,
10 or the release or surrender of valid and existing security in reliance
11 on the security in question.

12 *Other definitions*, such as "purchase," "person," etc., to be sup-
13 plied in the usual manner.

14 The *formal sections* in general are omitted in the present draft.

REPORT
OF THE
COMMITTEE ON A UNIFORM MORTGAGE ACT
**To the National Conference of Commissioners on Uniform
State Laws:**

Your Committee herewith presents its fifth report with a fifth tentative draft of the act, and asks its final adoption.

The original plan and substance of the act have been adhered to as found in the first draft of 1921. There have been lengthly discussions of the act at past Conferences, especially last year, when in a two days consideration of the Act it was tentatively approved. The act would probably have been finally approved last year except for the hope of some that an Act regulating foreclosure in Court, could be added. This proposition, however, was voted down by the Conference. With court procedure so diverse in the different states, it was considered impracticable to so regulate the procedure as to make it uniform. Furthermore, power of sale foreclosure as provided in this Act, would, as its advantages become known, replace Court foreclosure. A section (36) has been added to the Act making its provisions relating to certificate of sale redemption, and other features apply also to Court foreclosure, thus regulating and making uniform this form of foreclosure to a large extent, in matters where the local rules governing procedure in court do not interfere, and so nine sections of this Act will apply to court foreclosure.

What the Uniform Mortgage Act Does. The Act furnishes a statutory short form mortgage that will, by the use of some 160 words in the short form, supply the place of and be equivalent to one containing about 1,000 words with all covenants in use, thus saving more than four-fifths of the records of mortgage and often extended to 4000 words. The Act provides the equivalent covenants and clauses that become by statute a part of each mortgage. Short form mortgages of this character are found to be practical and are in nearly universal use in two states

where the law provides adequate statutory covenants. (Secs. 37 and 37A.)

It makes the mortgage a lien upon, instead of an estate in, the premises, leaving the right of possession in the mortgagor until foreclosure is complete. This is the law in the great majority of states; and in the minority, the mortgage is treated as a lien for most purposes. (Sec. 2.)

It provides for a definite substantial period of redemption after foreclosure sale, and for the manner of exercising the right of redemption by both the mortgagor and subsequent lienholders. (Sec. 25-29.) By the change of two words in Section 25 the redemption period may be made anywhere from one month to two years.

It provides for the application of these redemption features to foreclosure by suit or action in court. (Sec. 36.)

It provides a simple, inexpensive and efficient method of foreclosure without resorting to the courts, with ample protection to subsequent lienholders, leaves the title clear, definite and unclouded. (Part II, Sec. 13-35.) The method is "foreclosure by power of sale." It has been found satisfactory after extensive use, and has been fully interpreted by the courts. It consists of foreclosure by power of sale so regulated as to prevent oppressive use and of a substantial period of redemption. It requires notice of sale to be given by mail to interested parties, but not so as to affect the validity of the title. (Sec. 17.) In case there is a dispute on the mortgage, injunction may be easily secured and foreclosure must then be in court. (Sec. 34.) Statutory attorney's fees are provided. (Sec. 22.)

This method relieves courts and court records of foreclosure proceedings, and saves public expense. It meets a public demand to remove from courts matters that can be handled more expeditiously and economically in an administrative manner. (See President's Messages and American Bar Association Activities through different committees.)

The Act provides for the treatment of trust deeds in the same manner as the ordinary mortgage. (Sec. 1.)

It provides a statute of limitations for outlawing mortgages that leaves title unclouded by the mortgage because of some act outside the record, a feature contained in only a few states. (Sec. 11.)

What the Act does Not Do. The Act does not cover generally the substantive law of mortgages.

It does not interfere with or prohibit the foreclosure of any mortgage by suit in equity or otherwise by court proceedings, except as to the redemption features provided in section 36.

It does not provide for foreclosure by power of sale of mortgages not containing a power of sale. (Sec. 13.)

It does not permit a power of sale in a mortgage or in a trust mortgage, to be exercised in any manner except as provided by the Act. (Sec. 13.)

Diversity of Mortgage Foreclosure Laws.

In 28 states foreclosure of mortgages is by action in court, a needlessly expensive and cumbersome method which benefits neither party. Twelve of these states require this by statute, and the other 16 states use foreclosure in court because they have no proper statute for power of sale foreclosure. Ten states foreclose by unregulated power of sale with no redemption period. Five states use the regulated power of sale with redemption period, as provided in this Act, and the remaining states have various other methods.

Thirty-one states have a redemption period, 19 states provide for one year; four for six months; three for nine months, and five for more than one year. Seventeen states have no period of redemption; but of these, eight use foreclosure in court, which requires months to commence the suit and bring it on for trial and to advertise and sell. A table of mortgage laws in all the states in the 1922 Report (1922 Handbook p. 200) shows the great diversity of their laws on the above and a number of other matters.

A striking example of the unequalled operation of mortgage laws, is Kansas City. In Kansas City, Missouri, a mortgage may be

foreclosed by power of sale without any notice except by publication for three weeks and the sale is absolute with no redemption, a practical forfeiture. In Kansas City, Kansas, across the river, a mortgage must be foreclosed by a suit in court with 18 months for redemption after sale. In the capital of our country, an even more drastic system exists than in Missouri.

Foreclosure under Uniform Mortgage Act strikingly Contrasted with Foreclosure by Suit now existing in twenty-eight states.

Foreclosure under uniform act, a regulated power of sale.

1. Draw and publish a notice of mortgage foreclosure (made out upon a blank form).
2. Mail a printed notice to all known interested parties.
3. A sale by the sheriff at his office, who issues a certificate of foreclosure sale (\$3.50) which is recorded (\$1.00), which operates as a conveyance at the end of the period of redemption.

Foreclosure by Suit in 28 States

1. Title search with incident expense and delay. Careful investigation by title search and otherwise must be made in order to make necessary parties all parties who appear of record to have any interest in or lien upon the mortgaged premises subsequent to the mortgage, all parties in possession of the premises having any interest, and all parties who claim an interest in the premises of which the mortgagee has notice.

2. Lis Pendens, Summons, Complaint. Draw and file a Notice of lis pendens. Draw a complaint in foreclosure with all necessary allegations, and a summons or other process.

3. Service of process. Serve process personally upon all parties defendant in the state, and by publication or substituted or actual service upon all parties defendant out of the state or whose residence is unknown.

4. Trial. After the time for answering has expired, if no answer or demurrer (which have been invited) has been interposed, a hearing by the court must be obtained and affirmative proof of the complaint must be introduced showing plaintiff entitled to his relief.

If a general denial or other answer is filed, as is frequently the case, there is further delay and a trial.

5. Findings and decree. Draw findings, order, and judgment or decree of foreclosure, etc., according to the practice in

the particular state, for the signature of the judge which must be obtained.

6. Sheriff's authority to sell. Secure and deliver to the sheriff necessary papers authorizing him to sell on foreclosure.

7. Notice of sale and service. Prepare and publish and serve as otherwise required by statute sheriff's notice of sale.

8. Sale and Certificate of Sale. Sale of the premises by sheriff, who issues certificate of sale which is recorded or filed.

9. Sheriff's return, etc. Sheriff's report of sale presented to the court and filed, and order of court secured confirming the sale. Confirmatory deed, if required, at end of period of redemption.

The same steps must be taken for the smallest mortgage even if there be no objections or dispute of fact, as are taken for a very large mortgage to which there are defenses.

It will be noted that all investigation and all steps necessary for quieting of title must be taken in every action to foreclose a mortgage under court foreclosure.

Foreclosure under the Uniform Act, notwithstanding its simplicity, leaves a cleaner and simpler title, which is much less expensive to abstract and examine.

The Past Year. Five hundred copies of last year's report and draft, which is practically as tentatively approved last year, were printed and have been circulated to those known to be interested and to all those who have asked.

The act has received considerable important consideration during the year.

The March Harvard Law Review contained a 10 page review and friendly criticism of the act by Allen E. Throop, editor. The article was headed "Another Step Towards Progressive Legislation," and closed with the statement:

"The proposed Act not only makes for uniformity; it promotes brevity and certainty in mortgage instruments, simplicity of procedure, and validity of title. It enables the mortgagee to realize readily on his security; yet it protects the mortgagor against forfeiture. It relieves court congestion and shortens registry records. It has been carefully drawn and has for four years been subjected to thorough consideration and correction. Its substantial features have received

the commendation of the National Association of Real Estate Boards, representing some seventeen thousand firms or individuals. Upon its undoubted approval at the Conference of Commissioners in 1925, the Act should receive prompt and favorable legislative attention."

The review was clear and discriminating; and some of the suggested changes have been accepted. It referred to the committee reports to the Conference as authoritative, as have other discussions of the Act.

The June Michigan Law Review contained a 45 page article by Professor Durfee of Michigan University, professor of Mortgage Law, assisted by Mr. Delmar W. Doddridge, a former editor of the Review. The article discusses the principles underlying foreclosure, with special reference to redemption from the sale. Some of the minor changes proposed, have been adopted, but the main suggestion to modify the redemption system has not been accepted. The article shows careful study and analysis of the subject, and has thrown light on the matter from a new angle. It confirms in general the position the Conference has taken.

There has also been submitted by Professor Durfee, through Déan Bates, of this Committee, a lengthy discussion of a number of sections of the Act; and several of his suggestions have been adopted. Comments on the Act have been received from Prof. Low of Columbia Law School and Prof. Campbell of Harvard Law School. Mr. Bartley C. Crum has prepared a thesis for his J. D. degree at the University of California, on the effect the Act would have on the law of California.

The Association of Life Insurance Counsel, at their meeting at Hartford, Connecticut, May 13th and 14th, heard a paper reviewing the act and discussing its practical effect, delivered by Mr. Frank Ewing, one of the attorneys for the Metropolitan Life Insurance Company. On request 50 copies of the act were sent to the Association for this meeting. Mr. Ewing closed his review with the following statement:

"In conclusion the benefits of the proposed Uniform Mortgage Act may be briefly summarized as follows: It provides a

simple, inexpensive method of foreclosure in which everyone interested is notified. It gives a chance for court hearing if contested. It gives adequate period of redemption. It avoids unduly long foreclosure proceedings. It provides a good marketable title after foreclosure. It gives possession and right to rents and profits to the mortgagor prior to and pending foreclosure, thus giving him an opportunity to redeem. By agreement of parties the mortgagee may be put in possession at any time as further security. The mortgagor must keep the premises in repair and not commit waste. A short form of mortgage and trust deed are provided that will fully protect the rights of both parties by statutory construction. Additional provisions may be added by marking them not statutory. An effective statute of limitations is provided. Finally, if adopted it would give a uniform law, with definite and positive provisions, which would be a great aid in the handling of the enormous mortgage loan business of the country upon which in a large measure our prosperity and happiness depend."

Mr. Ewing states that the short form mortgage would save his company alone, about \$40,000 a year in recording fees. This would mean an annual saving of over a million dollars for the country as a whole on this one item, which saving goes to the borrower as he pays the costs of the loan. Mr. Ewing states that there are \$9,000,000,000 of mortgages on farm lands, and about \$30,000,000,000 of other mortgages on real property in the United States.

The American Title Association through its Executive Committee during the winter passed the following resolution heartily endorsing the Uniform Mortgage Act and its general principles.

"WHEREAS there is a well recognized demand in the United States for simpler and more uniform land laws, especially the laws of real estate mortgages, which better laws would facilitate dealing in and borrowing on land and would create better titles; and

WHEREAS it is one of the primary purposes of this Association to aid in securing better land laws; and

WHEREAS the Uniform Mortgage Act now before the National Conference of Commissioners on Uniform State

Laws, would greatly improve Mortgage Laws, especially in the following:

(a) It provides the best method of foreclosing real estate mortgages and trust deed mortgages, to-wit: foreclosure by advertisement with period for redemption, as an alternative for foreclosure in court, which method is economical, simple, certain, fair to both borrower and lender, and gives good title, while there are now in force many different, cumbersome and expensive methods of foreclosure in the various states, some of them very unfair to borrower or lender.

(b) It provides an effective statute of limitations on mortgages which clears the record of outlawed mortgages, aiding greatly in clearing titles.

(c) It provides a short form mortgage and trust deed mortgage that can be generally used, facilitating borrowing and reducing records.

(d) It provides an act uniform in the various states, thus aiding borrowing money between states and tending to reduce the rate of interest, since at present the mortgage law in the states is hopelessly diverse and confusing to lenders in other states.

BE IT RESOLVED that the American Title Association through its Executive Committee heartily endorses the Uniform Mortgage Act now before the National Conference of Commissioners on Uniform State Laws and the passage of the same by the various states, as a movement for better laws, better titles and better business."

The American Title Association is an association of the abstract of title men of the United States and has been making a special study of desirable Uniform Real Property Laws through its committee on that subject.

The Executive Committee of the Mortgage and Finance Division of the National Association of Real Estate Boards made a special request that the Chairman, as being specially fitted to furnish constructive suggestions, furnish an article on Uniform Mortgage Laws to be published "as an important part of the 1925 volume on Real Estate Finance."

Changes. As a result of suggestions received and further consideration of the Act, some modifications of the language

have been made in a number of the sections, which are referred to in the notes.

It has seemed desirable to add foreclosure and other forms. Section 38 provides new forms of Assignment, Satisfaction and Discharge, and Partial Release of Mortgages with a statutory statement of their effect. Their use is optional; but they serve to shorten and standardize forms and make practice uniform in the different states, as well as to save recording space. Section 37 and 37A contain an additional covenant (7) for use in second mortgages. We believe with this addition the short form may be used also for second mortgages.

Forms for foreclosure, of notice of sale, certificate of sale and certificate of redemption are added in Section 35.

Certain provisions of substantive law have been added in sections 4, 5 and 6, relating to the effect of tender, mortgages for future advances, and mortgages securing negotiable instruments.

The committee at its meeting in Chicago in February decided upon such additional sections.

History of the Act. Previous efforts in the Conference for a Uniform Mortgage Act, in 1911 and 1920, and their failure have been referred to in the 1921 Report (1921 Handbook 254). The present committee was provided for in 1920, and the present Chairman and Draftsman have continued with it since that time. The plan and chief features of the present act were framed by the Chairman and Draftsman and contained in the first draft in 1921. The changes have been in some matters of detail. The act has in view practical operation as well as theoretical considerations. No other practical plan for a uniform foreclosure scheme has been presented during the past four years. This has the distinct advantage of focusing the efforts of the committee and draftsman and of practical men of the country on this one form so that it could be perfected. At first there was opposition from many different quarters, but the plan has won its way against all opposition which has died down as the merits of the Act became

realized. In 1921 the Conference voted that the Act provide for foreclosure by power of sale with a period of redemption, and that the period be before the sale, also that the Act apply to trust deed mortgages. The 1922 Report showed that a redemption period before sale was undesirable and impracticable, and not in use with this system of foreclosure, and analyzed the different foreclosure systems. It also contained letters from men of wide experience endorsing the plan of the Act. (1922 Handbook 253). In 1923 the Conference or the Executive Committee asked for alternative acts to cover or exclude trust deeds, to provide for a redemption period or final sale and to provide for foreclosure in court. If carried out in full, this would have diverted the effort into a number of diverse channels: The 1924 Report, therefore, left the Act in substance as it was, but made it elastic, with provision for easily shortening or lengthening the redemption period as any state should wish, and with instructions as to how Trust Mortgages could be eliminated from the act. The draft as so presented was tentatively approved by the Conference last year. The separate act for foreclosure in court was then discarded by the Conference. The 1924 Report contains extracts from many persons approving the act, Deans of leading law schools, Counsel for Insurance Companies, Federal Land Banks, Mortgage Companies, and others. In the 1923 Report is quoted an endorsement of the chief features of the Act by the National Association of Real Estate Boards.

The difficulties surrounding the drafting of the act were numerous. It was more than a uniform law drafting task. It was a statutory job and involved accepting new legal theories for handling mortgages. It partook of financial, economic and sociological considerations. The point of view of the money loaning associations, the borrowing farmer, the realtor dealer, court procedure reform, political tendencies of the National Farm Loan Bureau, of the Agricultural Department, and of Federal Land Banks and Joint stock land banks were all involved. From the beginning we had to take into consideration the inertia

of lawyers in accepting new theories and a new practice, to say nothing of the apparent loss of profitable business, the conservatism of the enormous property interests, an established judicial system, conflicting customs, the theories of a loan as an estate or a lien, the foreclosure of mortgages in many states by a practical forfeiture without time for redemption, and in most states by the cumbersome court foreclosure, the conflicting opinions as to a period of redemption before sale or after sale or no redemption at all. Finally, a plan of operation must be worked out, which in the main had to be an established American Law supported by sufficient judicial decisions, adding only such new ideas as were in full accord with such laws and conditions. Because of the fact that there had not been in this country any study, efforts or consideration of legislation for standardizing mortgage law and procedure, the text books and leading articles in periodicals furnished no guide and gave no assistance whatever. It was an "unexplored field." Until the draftsman in the second year of this committee, arranged a tabulation of the mortgage laws of the forty-eight states shown in the second report, there was no source from which the mortgage laws of the states could be at all classified for comparison or inferences.

The foregoing suggests the practical difficulties that had to be met. Certain interests desired final sale which many states have, which however, was to the great disadvantage of the borrower. Certain interests desired immediate foreclosure upon default, sustaining the claim by the statement that such a method was a desired stimulus to the borrower to meet his debts. Certain interests wished to throw as much difficulty in the way of foreclosure as possible, thus increasing the hazard of loans, with increased interest and increased expenses of foreclosure.

Under these circumstances it is apparent that nothing less than a genius as a draftsman could have wrought out of these conditions that which a committee had twice said could not be done because of diversity of mortgage laws.

The Chairman would not be doing himself justice did he not here acknowledge his own obligation and that of this conference to Doctor Bridgman for his four years of arduous and persistent investigation and labors, without substantial pay, except by work well done and the betterment of legal, economic and financial conditions. His studies and interest in economics, sociology and law and his genius for investigation, his actual legal practice and being situated where daily discussions and conference with attorneys, of large foreclosure experience, could be had, have made this report possible.

We wish especially to again acknowledge the valuable suggestions and criticisms which have been entered into the act, of J. F. Horn, Attorney of Wells-Dickey Co., Minneapolis, and George Lines, General Counsel of the Northwestern Mutual Life Insurance Company, Milwaukee. Others who have given valuable support and encouragement to the act, we mention, Hon. R. A. Cooper, Federal Farm Loan Commissioner, Washington, D. C.; W. E. Pepperell, Chief Counsel of the Federal Land Bank, Wichita, Kansas; Lysander Cassidy, General Counsel of the Pacific Coast Joint Stock Land Bank, San Francisco, Calif. Without the aid and assistance of George B. Young, former chairman of the Executive Committee, and of Nathan William MacChesney, President of the Conference, the act would have been indefinitely postponed and its work rendered useless at each session until the 1924 session, when it had finally won recognition.

Upon going to press of this report on August 17th a letter and "Comments Upon the Provisions of the Uniform Mortgage Act Relating to Redemption After Foreclosure Sale" by Morton C. Campbell, Professor of Mortgage Law in Harvard Law School, are received, too late, however, to consider in the text of the act itself or in the report.

In regard to the article on this subject by Professor Dürfee and Mr. Doddridge in the June Michigan Law Review p. 825 he says, "I am obliged to disagree with it," and it is apparent that he agrees in the main with the redemption plan of the Uniform Act.

He also sends us proof sheets of his forthcoming case book on mortgages in which he uses the Minnesota statutes and decisions on redemption as the basis of his discussions of the subject because they are the basis of the Uniform Mortgage Act, and its interpretation.

We regret that we had not the advantages of this article before the report was in the press.

Your committee herewith submits the fifth tentative draft of a Uniform Mortgage Act by Doctor Donald E. Bridgman, of Minneapolis, Minnesota, draftsman.

Respectfully submitted,

Committee:

S. R. CHILD, *Chairman*

HOLLIS R. BAILEY

HENRY M. BATES

W. F. BRUELL

WILLARD L. STURDEVANT

JAMES M. GRAHAM

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Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

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FIFTH TENTATIVE DRAFT OF UNIFORM MORTGAGE ACT*

An Act Concerning Mortgages of Real Property and Their Foreclosure and to Make Uniform the Law Relating Thereto.

Be it Enacted by

SECTION 1. **Definitions.** (1) In this act, unless the context or subject-matter otherwise requires:

“Mortgage” means a mortgage of real property, and includes an agreement or conveyance whereby the mortgagor gives to the mortgagee real property as security for payment of a debt or fulfillment of other obligation. “Mortgage” includes an equitable mortgage, an absolute deed given as security, and a trust mortgage, as well as a conveyance on condition as security.

“Trust mortgage” means a mortgage in which the mortgagor gives the real property to a third person, the trustee, to hold as security for a debt or other obligation.

“Execute” means to sign, acknowledge and deliver with all the requirements for a deed of real property to entitle it to be recorded.

“File” means to file in the recording office of the county where the sale is held.

“File for record” or “record,” means to file for record in the recording office of each county where the land or any part thereof is located; but failure to so file for record in any county shall affect only the land located in that county.

“Lienor” includes any person having a lien or incumbrance legal or equitable upon the premises or a part thereof, by reason of a mortgage, judgment or other cause, and also includes a purchaser at a foreclosure, execution or other sale from which the period of redemption has not expired.

“Mortgagee” includes any person succeeding to the rights of the mortgagee, and may mean the trustee of a trust mortgage or holder of the obligation secured or both.

*This draft contains the changes made at the Detroit meeting, August, 1925.

"Mortgagor" includes any person succeeding to the rights of the mortgagor in the premises or part thereof, but does not include a lienor.

"Obligation" secured by a mortgage, includes the performance or non-performance of any act so secured, although there be no personal obligation involved.

"Person" includes a corporation, a partnership and two or more persons having a joint or common interest.

"Purchaser" when used to mean the buyer at the foreclosure sale, includes any person succeeding to the rights of the purchaser.

"Real property" or "premises" includes any estate or interest in land, legal or equitable, including leasehold estates.

"Record owner of the mortgage," means the person holding title of record to the mortgage although the debt secured be held by others, and in the case of a trust mortgage means the trustee or his successor of record; and it includes an executor, administrator, guardian, or other personal representative of the record owner, when proof of his appointment has been recorded. [It means the registered owner of the mortgage if the land be registered.]

"Recording office" means the office in which deeds and mortgages are filed and recorded; and "recording officer" means the officer in charge of such office.

"Sheriff" means the sheriff of the county where the foreclosure sale is held.

"Taxes" include other governmental levies and local assessments, and also include the lien of taxes represented by tax sales and certificates thereof.

"Trustee" includes a successor to the trustee.

(2) "Assignments" and "assignee" as used in sections 13 and 15, do not apply to the instruments secured by the mortgage; and in the case of a trust mortgage, "assignment" means any instrument creating a successor to the trustee, and "assignee" means a successor to the trustee.

"Mortgagee" in section 15, in the case of a trust mortgage, means the trustee.

The definitions formerly in Part IV, have been included in this section.

The definitions of "obligation" and "record owner" are new, as is the extension of "taxes" to cover tax liens after sale for taxes. Subdivision (2) is new.

Subdivisions (3) and (4) of this section, defining "legal holder of a mortgage," have been omitted in this draft of the act. The expression "record owner" of the mortgage has been substituted for "legal holder" in sections 14, 15, 18, and 33, to indicate the person who forecloses by power of sale under Part II; and it is defined.

Mortgage is defined broadly to include all forms of a mortgage. This is a usual use of the word, and makes the provisions of the act apply to the "trust deed" form and the informal or equitable mortgage without additional language. The trust mortgage form of mortgage is defined because it is necessary in Part III on Short Forms and in one or two other sections to refer to it separately from other mortgages.

The act applies only to mortgages of real property by definition of "mortgage."

The broad meaning of "mortgagor," "mortgagee" and "purchaser," extended to include persons holding under them, as a matter of convenience, should be borne in mind in reading the draft.

The distinction between "mortgagor" and "lienor" is important in connection with the sections on redemption (Sec. 25 following).

PART I

GENERAL PROVISIONS FOR ALL MORTGAGES

SECTION 2. Nature of Mortgage, Possession.

(1) A mortgage gives a lien on the real property and does not create an estate therein.

(2) The mortgage gives no right to possession or to the rents and profits of the mortgaged premises to the mortgagee or purchaser at the foreclosure sale until it is foreclosed and the period of redemption has expired, even though the mortgage contains a conveyance, or agreement for possession by the mortgagee, or pledge of the rents and profits, or other provision to the contrary.

(3) When however the mortgagee with the consent of the mortgagor, or when the purchaser at a defective foreclosure sale in good faith, takes possession of the premises, he may retain such possession as mortgagee in possession until the obligation secured by the mortgage is fulfilled.

This section states the rights of possession under the lien theory, and that these fundamental rights may not be waived in the mortgage.

The rule of mortgagee in possession is also recognized.

See Mich., C. L. 1915, Sec. 13221; Minn., G. S. 1913, Sec. 8077; N. D., C. L. 1913, Sec. 6725, 6740; S. D., R. C. 1919, Sec. 1547, 1558.

Citations are given under the various sections of the act of corresponding sections in the statutes of Michigan, Minnesota, North and South Dakota, and Wyoming. These are the states where foreclosure by power of sale with regulations similar to Part II is used.

New York in 1828 adopted the lien theory by statute (R. S., pt. 3, ch. 5, tit. 1, sec. 57; see N. Y., C. P. A., 1920, sec. 991); and a similar section is now found in the laws of nearly all the states having the lien theory of a mortgage.

The majority of states (28) regard a mortgage as a lien at all times, while four others regard it as a lien until default. In only two states, California and Colorado, is a trust mortgage different from a straight mortgage and treated as creating an estate where a mortgage creates a lien. The draft adopts the majority view. It seems the more consistent, since in states where a mortgage is held to be an estate, it is so held only for the purpose of securing the loan, and in most respects the mortgagor is treated as owner. In a number of states where a mortgage gives an estate, the mortgagee is nevertheless not entitled to possession until default. There is little practical difference between the two theories as interpreted by the courts, outside of the question of right of possession between default and foreclosure; and even during that period in case of waste impairing the security, the mortgagee has his remedy under the lien theory. (See Sec. 3 and 23.) The mortgagee in most cases does not care about taking possession if he could, but wants the property realized on and his loan repaid.

SECTION 3. Receiver Prior to Sale.

(1) When an action or proceeding has been commenced to foreclose a mortgage, a receiver of the mortgaged premises may be appointed upon application of the mortgagee at any time prior to the sale, if it appears that the security is clearly inadequate, or that the premises are in danger of being materially injured or reduced in value as security, by removal, destruction, deterioration, accumulation of prior liens or otherwise, so as to render the security inadequate. The proceeds of the receivership above its expenses and such other expenses and payments as are necessary to preserve the premises from deterioration or increase of prior liens, shall, if the security be inadequate, go to restore the premises, or to apply on the debt or other obligation secured by the mortgage. Any surplus shall go to the mortgagor.

(2) If the facts would justify the appointment of a receiver under this section, but one is not applied for, and if the premises be abandoned by the mortgagor, the mortgagee may take possession until the sale, and shall be subject to the same duties and

liabilities for the care of the premises and for the application of the rents and profits as would a receiver.

Changes made, allow a receiver when the security is reduced in value so as to be inadequate by other causes as well as by waste, and permit the rents and profits until the foreclosure sale to be applied on the mortgage. This creates a slight exception to the mortgagor's right to possession and rents and profits as stated in section 2.

While under the lien theory the mortgagor is entitled to possession, yet protection against acts rendering the security inadequate is given. The remedies of injunction and action for damages are not mentioned in the act but exist in all states. It seems desirable, however, to have a uniform provision for receiverships which are associated with foreclosure. This section covers receivers prior to sale, both in case of foreclosure by power of sale and action in court. Section 23 relates to receivers after sale under a power.

To avoid expense and delay, provision is made for the mortgagee to constitute himself receiver. This is a new provision not found in existing statutes on receivers, and is useful in smaller mortgages to reduce costs.

SECTION 4. Effect of Tender. Tender of the amount due on a mortgage, when made after maturity, if not accepted, does not of itself discharge the lien of the mortgage.

New section. States having the lien theory differ as to the effect on the mortgage of tender after maturity; making it desirable to prescribe a rule. The effect of tender kept good in stopping interest, and existing statutory penalties for refusal to satisfy a mortgage, are not affected.

SECTION 5. Mortgages for Future Advances. A mortgage given to secure future advances in whole or in part, has the same priority for such advances as if they were made at the time of the giving of the mortgage. If, however, the making of the future advances is optional, such advances as are made after the mortgagee has knowledge of another encumbrance, shall rank subsequent to such encumbrance.

New section. The question of priority of mortgages for future advances arises especially in building loans. There is diversity of law on the point, but the above rule is the prevailing one. It enables the parties to go through with the loan as arranged, and not be halted by other accruing liens.

SECTION 6. Mortgages Securing Negotiable Instruments.

A mortgage securing a negotiable instrument is free from any defences from which the obligation secured by the mortgage is free by reason of its negotiable character, subject, however, to the effect of the recording acts.

New section. In a large majority of the states a mortgage securing a negotiable instrument has the same freedom from defences as the instru-

ment secured, and is "negotiable." This is not true in a few states. This section adopts the majority rule making a mortgage "negotiable" if the note be so.

SECTION 7. No Priority Between Different Parts of Debt Secured. If the indebtedness or other obligation secured by a mortgage is evidenced by more than one instrument, the mortgage is for the equal security of all parts of the obligation, without preference or priority of any part over any other part by reason of the priority of time of maturity, or of the transfer thereof, or otherwise, in the absence of any agreement for such preference or priority.

There are three different rules in the different states as to rights under separate secured notes; equality, priority according to maturity date, and priority according to order of negotiation. The equality rule, in absence of contrary agreement, is chosen for a uniform provision. The point is one raised largely by trust mortgages; and since the act applies to them, the section is inserted.

SECTION 8. Foreign Representative May Act When.

An executor, administrator, guardian, or other personal representative, appointed in another state or country, upon filing for record a duly exemplified copy of his letters or other record of appointment, may in person or by attorney assign, release, satisfy or foreclose any mortgage belonging to the estate represented by him.

See Minn., G. S. 1913, Sec. 7302; Wyo., C. S. 1920, Sec. 4652 (Limited to satisfaction of mortgage.)

This section enables a foreign representative to deal with and foreclose a mortgage belonging to the estate, without taking out letters, and also provides some record evidence of his authority, protecting against unauthorized foreclosure and keeping the record title clear.

SECTION 9. Reinstatement of Mortgage with Acceleration Clause. Where the principal of a mortgage, or any part thereof, has become due by reason of an acceleration clause, payment or tender before sale on foreclosure, of the amount, other than such principal, due and in default under the mortgage, with costs of foreclosure including attorney's fees incurred up to the time of payment or tender, shall relieve from the default whereby the principal became due, and shall reinstate the terms of the mortgage; and the foreclosure for such principal shall cease.

The section provides the mortgagor with protection against the right to declare the whole of a large mortgage due on a default of a few days

in an installment. To replace the mortgage would require another commission, and there is hardship on the mortgagor in exposing him to the payment of a large commission because of a slight default.

SECTION 10. Purchaser's Interest Subject to Execution, etc. The interest acquired by the purchaser at a mortgage foreclosure sale is subject to attachment, the lien of judgments, levy and execution, the same as is real property.

Although strictly speaking the purchaser has no estate in the premises until after the redemption period, yet it seems more convenient to treat it as real property for the purposes mentioned. The certificate of sale is recorded shortly after the sale (Sec. 19), and creates a record interest. The section seems necessary to clear up a doubtful point in states where at present there is no redemption period after sale and where the act is adopted creating such a period.

See Minn., G. S. 1913, Sec. 8145.

SECTION 11. Statute of Limitations. At the expiration of a period of [fifteen] years from the last definite date of maturity of the debt or other obligation secured by a mortgage as stated therein, or in an extension thereof duly executed and recorded as below provided, and if no definite date for any maturity be stated therein, then at the expiration of a like period from the date of the mortgage or of the extension, the lien of the mortgage shall cease and no suit or proceedings shall be begun thereafter to foreclose the mortgage.

Such period shall be extended only by an extension of the mortgage duly executed by the owner of the mortgaged premises and recorded before the period of limitation expires, and shall not be extended by other agreement, non-residence, disability, partial payment or otherwise.

If an action or proceeding to foreclose has been begun before the expiration of such period, it may be continued and completed thereafter, but it shall be void as to a person who in good faith becomes a purchaser or encumbrancer of the premises without actual or constructive notice thereof.

This section shall not apply to a mortgage in the form of an absolute deed, unless such deed and the separate instrument operating as a defeasance are both recorded at least one year prior to the time when the period of limitation would expire if it applied.

The above section terminates the lien of a mortgage absolutely, if not renewed of record. It is similar to the section contained in the first three drafts, and approved by the conference in the second draft, but voted out of the third draft. A section was substituted in the fourth draft terminating the lien as to bona fide purchasers and encumbrancers but leaving it between the parties to the mortgage. This section was not reached last year. The original form is now restored. Criticisms from different sources confirm the view that only by terminating the lien of the mortgage for all purposes can the section be made really effective to clear the record, since otherwise there is always the question whether the person had actual notice outside the record. Another form of the section, limiting the period for which the record is effective, but not terminating the lien, is available, if desired.

Mich., C. L. 1915, Sec. 11746, 12322; Minn., G. S. 1913, Sec. 7698-99, 8107.

The purpose of this section is to outlaw the mortgage as a lien or a cloud on the title. It renders effective limitation on mortgages, so that a mortgage that appears outlawed by the record may not be saved by non-residence, part payment or some other fact not appearing of record. It is similar to the Minnesota statute that has for many years proved so effective that an outlawed mortgage is not treated as a cloud on the title. Only some five states have a really effective statute of limitation. This section alone was considered of enough importance to propose as a uniform act in the conference a few years ago.

A number of states, as a partial remedy against clouding the title with old mortgages not satisfied of record, provide for a proceeding in court to determine whether there has been partial payment, etc., or whether the mortgage is outlawed, and for a decree discharging it. The above section operates to outlaw the mortgage without the necessity of a court proceeding.

The original mortgagor can join in the extension to avoid releasing his personal obligation on the debt.

The period of limitation varies greatly in the different states, from four years to twenty-one years. Each state can insert in this section such period as is desired.

This section is deemed important. It covers one of the fifteen proposals of the American Title Association, desirable for better titles.

SECTION 12. Penalty for Impairment of Security.

Every mortgagor or other person who, with intent to injure or defraud the mortgagee or purchaser, removes any building or fixture from mortgaged premises, or otherwise injures or damages such premises, either before the foreclosure sale without the consent of the mortgagee whereby the value of the mortgage is impaired, or after such sale without the consent of the purchaser whereby the value of the premises is impaired, is guilty of [], and shall be punished by [].

See Minn., G. S. 1913, Sec. 8906.

In many states there are no crimes except those designated by statute, making it advisable to include a criminal section. The mortgagor is entitled to possession but should not take advantage of that fact to intentionally injure the mortgagee.

PART II

POWER OF SALE FORECLOSURE

SECTION 13. Requisites for Foreclosure. Every mortgage containing a power of sale, and whether or not containing a conveyance, may be foreclosed by the record owner thereof in the manner hereinafter specified,

(1) If there has been a default in some condition of the mortgage, by which the power to sell has become operative,

(2) If no action or proceeding has been instituted at law to recover any part of the debt then remaining secured by the mortgage, or if an action or proceeding has been instituted, but has been discontinued or an execution upon the judgment therein has been returned unsatisfied in whole or in part, and

(3) If the mortgage has been recorded, and, when it has been assigned, if all assignments thereof have been recorded; [but if the mortgage is upon registered land, it shall be sufficient if the mortgage and all assignments thereof have been registered].

No mortgage shall be foreclosed by exercise of power of sale in any manner other than as provided herein; but a power of sale in a mortgage may be exercised as herein provided, regardless of the person to whom the power runs and of the terms of the power.

The words "by the record owner of the mortgage" have been added in the first paragraph; and the last clause making Part II apply to a power of sale in any form, is new. The words "to secure the payment of money," after "mortgage" in the first line, have been stricken out.

See Mich., C. L. 1915, Sec. 14949-50; Minn., G. S. 1913, Sec. 8107-8; N. D., C. L. 1913, Sec. 6736, 8073, 8077; S. D., R. C. 1919, Sec. 1553, 1554, 2876-7; Wyo., C. S. 1920, Sec. 4627-8.

These are the usual provisions in existing statutes.

No provision for registered land is made outside of a few sections (1, 13 and 15) where it seems desirable. This is because Registration Acts usually contain a blanket provision for filing with the Registrar of Titles in place of recording, which provision should cover foreclosure of

registered land under this act. In states where there is no Torrens land registration the part in brackets should be omitted.

It is important in foreclosure by power of sale, in the absence of court decree, to keep the record title clear. For this reason, as well as for protection against unauthorized foreclosure, assignments of the mortgage (not of the note) must be recorded under this section and foreclosure is by the record owner. See section 1. Also other recording requirements are contained in the act. (Sec. 14, 19, 21, 26, 27). Foreclosure by power of sale is by the record owner of the mortgage, although the holder of the note, if they pass into different hands, may be entitled to the proceeds in equity. In a trust mortgage the trustee forecloses.

Even though a mortgage is informally drawn and does not contain a conveyance, it may be foreclosed under this Part if there be a power of sale. This will permit of simpler forms of mortgages, omitting the cumbersome conveyance and defeasance clauses.

SECTION 14. Power of Attorney to Foreclose, Recorded. The foreclosure may be conducted by an agent of the record owner of a mortgage. His authority shall be by a power of attorney duly filed [for record] before or at the time of recording the certificate of sale, [which may be recorded with the certificate,] and executed by the record owner or by his agent whose authority is also evidenced by a recorded power of attorney.

The section has been reworded.

See Minn., G. S. 1913, Sec. 8119; N. D., C. L. 1913, Sec. 8075, 8076.

This section was not originally in statutes for foreclosure by advertisement. Extensive fraudulent foreclosures by unauthorized persons, sometimes after the death of the mortgagee, caused the section to be adopted in the states where it is found after the panic of 1892.

SECTION 15. Contents of Notice of Sale. Notice of the foreclosure sale shall be given specifying:

- (1) The names of the original mortgagor and mortgagee, and of each assignee of the mortgage, if any, and of the record owner of the mortgage;
- (2) The date of the mortgage, and date and place of record, [but if the mortgage be upon registered land, the notice shall state that fact, and the date and place of registration;]
- (3) The amount claimed to be due thereon at the date of the sale;
- (4) A description of the mortgaged premises; and
- (5) The time and place of sale, complying with section 18.

"Record owner" has been substituted for "legal holder" in (1); and "confirming substantially to that contained in the mortgage" has been omitted from (4).

See Mich., C. L. 1915, Sec. 14952; Minn., G. S. 1913, Sec. 8112; N. D., C. L. 1913, Sec. 8080; S. D., R. C. 1919, Sec. 2880; Wyo., C. S. 1920, Sec. 4630.

These are the usual provisions in existing statutes.

The clause in brackets should be omitted in states which do not have the Torrens land registration system.

SECTION 16. Publication of Notice, Postponement of Sale.

(1) The notice of sale shall be published three times, once in each of three successive weeks, in a newspaper published in the county where the sale is to be held, or if there be none, then in a newspaper published in an adjoining county, or in the nearest county in which a newspaper is published, the first publication to be not less than forty-two days prior to the date of sale.

(2) The sheriff may postpone the sale from time to time, in the absence of objection by the mortgagor and with the consent of the person foreclosing, and shall set forth the postponements in the certificate of sale.

Subdivision (2) is in a new form. The requirement of publishing a notice of postponement is omitted.

Mich., C. L. 1915, Sec. 14951, 14954; Minn., G. S. 1913, Sec. 8111, 8128; N. D., C. L. 1913, Sec. 8079, 8092; S. D., R. C. 1919, Sec. 2879, 2882; Wyo., C. S. 1920, Sec. 4629, 4632.

SECTION 17. Mailing Notice to Interested Parties. The notice of sale shall be mailed to each person, whose address is known, known by the person foreclosing to be the original mortgagor, or a subsequent grantee of the mortgaged premises, or to have an estate or interest in or lien upon the premises subject or subsequent to the mortgage. Such notice shall be mailed, directed to each such person at his last known address, not less than five weeks before the date of sale, or at such subsequent time before the sale as the name or address of any such person is learned. Failure to mail the notice shall not invalidate the foreclosure, but any person entitled to the notice may recover all damages suffered by him from such failure. No action shall be commenced to recover such damages after two years from the date of the sale.

The last few lines relating to recovery of damages, are new.

This section has caused more difficulty than any other, and in each draft it has been changed. No notice need be given under this kind of foreclosure other than the published notice which satisfies due process of law and jurisdictional requirements.

No other notice is required under the Michigan, South Dakota and Wyoming statutes. Minnesota requires personal service on the occupant only. There is no service in case of vacant land. This method is therefore ineffective in giving notice; but is also objectionable as giving opportunity for raising a question of fact on the notice, thereby creating doubtful foreclosures. Yet common business fairness requires a notice if it be easily given and if the requirement does not jeopardize or throw doubt on the foreclosure. The mortgagee wants to give no notice, the interested parties want notice.

We think this method should satisfy all parties. Notice by mail is the most effective notice possible, and it is so easily and inexpensively given that notices will be profusely mailed in order to escape the charge of fraud or concealment.

The giving of these notices being wholly gratuitous cannot affect the foreclosure.

SECTION 18. Sale, How Made, Separate Tracts.

(1) The sale shall be made by the sheriff at public auction to the highest bidder at the time and place specified in the notice, or at the postponed time. The place shall be [at the sheriff's office] in the county in which the whole of the premises to be sold, or some part thereof, is situated; and the time shall be between nine o'clock A. M. and five o'clock P. M.

(2) The mortgagee, the record owner of the mortgage, or any person having any interest in the mortgage or obligation secured thereby, may, fairly and in good faith, purchase the premises, or any part thereof, at the sale.

(3) If the mortgaged premises consist of separate farms, tracts or platted lots not used as one, they shall be sold separately, and no more tracts shall be sold than are necessary to satisfy the amount due on such mortgage at the date of sale, with costs of sale; but if the mortgage provides that the mortgaged premises shall or may be sold as an entirety, or in certain specified parcels or tracts, then the provisions of the mortgage shall govern, subject to any rights, legal or equitable, affecting the order of sale. Failure to comply with this subdivision may render the sale voidable by action brought within [six months] from the date of sale.

Subdivision (1) of this section and (5) of section 15 have been reworded to refer to each other.

(1) and (2). See Mich., C. L. 1915, Sec. 14953, 14956; Minn., G. S. 1913, Sec. 8127, 8132; N. D., C. L. 1913, Sec. 8081, 8083; S. D., R. C. 1919, Sec. 2881, 2884; Wyo., C. S. 1920, Sec. 4631, 4634.

One of the features of the act is that the sale shall be made by a disinterested public officer under bond, who holds the proceeds of the sale and the redemption money, and not by the mortgagee.

(3) See Mich., C. L. 1915, Sec. 14955; Minn., G. S. 1913, Sec. 8129; N. D., C. L. 1913, Sec. 8082; S. D., R. C. 1919, Sec. 2883; Wyo., C. S. 1920, Sec. 4633.

It is provided that the mortgage can specify the tracts in which the premises shall be sold, subject to rights affecting order of sale. These include matters of marshalling securities, such as sale in inverse order of alienation, and sale of the homestead last.

SECTION 19. Certificate of Sale, Effect, as Evidence.

The sheriff making the sale, even after his term of office has expired, or his successor in office, shall execute to the purchaser a certificate containing:

- (1) An identification of the mortgage, with the names of the parties and date of the mortgage and date and place of its record;
- (2) A description of the premises sold;
- (3) The name of the purchaser, and the price paid for each parcel sold;
- (4) The time and place of the sale; and
- (5) The time allowed by law for redemption.

The certificate may also contain the name of the newspaper publishing the notice and the dates of publication.

Such certificate shall be recorded within twenty days after the sale, and when so recorded, upon expiration of the time for redemption, operates as a conveyance to the purchaser of all estate and interest in the premises on which the mortgage was a lien at the time of the sale, but subject to liens prior to the mortgage.

The recording officer shall note on the margin of the record of the mortgage foreclosed, a reference to such certificate and the place of its record.

The certificate of sale and the record thereof shall be prima facie evidence that all the requirements of law for the sale have been complied with, and shall, after the expiration of the time for redemption, be prima facie evidence of title in the purchaser, and

be conclusive evidence of a valid foreclosure in favor of persons who thereafter become bona fide purchasers and encumbrancers from the purchaser.

The provision for giving the facts of publication of the notice in the certificate, is new. Also there have been reworded: item (1), as to what the certificate operates to convey, and the last clause of the section. The expression, that the certificate operates as a conveyance of the estate and interest of the mortgagor at the time of the execution of the mortgage, is omitted, because inaccurate and because the matter is covered by the expression "estate and interest on which the mortgage was a lien at the time of the sale," although the former expression is the usual one in existing statutes.

See Mich., C. L. 1915, Sec. 14957-58, and compare Sec. 12910; Minn., G. S. 1913, Sec. 8133, 8139, 8142; N. D., C. L. 1913, Sec. 8084, 8087, 8094; S. D., R. C. 1919, Sec. 2886, 2893, 2894, 2904; Wyo., C. S. 1920, Sec. 4636, 4637, 4643.

This section in general follows the Minnesota act and dispenses with a deed at the end of the redemption period. A deed in addition to the certificate of sale seems unnecessary.

The conclusive effect of the certificate as evidence is to aid in making clearer and more marketable titles on foreclosure. It operates as a short statute of limitation.

SECTION 20. Proceeds of Sale and Surplus. The proceeds of the sale shall be immediately used by the sheriff making it to satisfy first the costs of the foreclosure, and then the mortgage. Any surplus shall be retained by the sheriff for thirty days and then paid over to subsequent lienors in order of priority and the remainder to the owner of the equity of redemption.

See Mich., C. L. 1915, Sec. 14962; Minn., G. S. 1913, Sec. 8131; N. D., C. L. 1913, Sec. 8088-91; S. D., R. C. 1919, Sec. 2885, 2905; Wyo., C. S. 1920, Sec. 4639.

It seems that the surplus should be so held to allow any claims to be presented.

Under this form of foreclosure, since the redemption period follows the sale, the premises are practically always bid in by the mortgagee for the amount of the mortgage and costs or less, but not for more, and the mortgagor redeems, or sells his equity of redemption, at private sale, to some one else who redeems. The question of disposition of the surplus is therefore of little practical importance.

SECTION 21. Evidence of Foreclosure Perpetuated.

(1) Evidence of the foreclosure proceedings may be perpetuated by filing [for record]

(a) an affidavit of the publication of the notice of sale with a copy of the notice, to be made by the publisher of the news-

paper in which the same was published, or by some person in his employ knowing the facts, and

(b) an affidavit of mailing the notice of sale.

Such affidavits [or the record thereof] shall be prima facie evidence of the facts therein set forth.

(2) If the mortgage foreclosed covers real property in more than one county, a certified copy of the certificate of sale and other foreclosure or redemption proceedings and evidence thereof, of record or on file, may be recorded or filed in any county other than where the sale was held.

(1) See Mich., C. L. 1915, Sec. 14963-65; Minn., G. S. 1913, Sec. 8138; N. D., C. L. 1913, Sec. 8092, 8093; S. D., R. C. 1919, Sec. 2891-92; Wyo., C. S. 1920, Sec. 4640-42.

The evidence of sale is to be filed and not recorded except in states which adopt the words in brackets. This would save the accumulation of records perpetually. Evidence of title in tax sales all rests upon files in some office other than the recording office. It is the same in execution sales and probate proceedings.

(2) See Minn., G. S. 1913, Sec. 8136.

The section is permissive, not making of these affidavits a jurisdictional requirement. They will, however, be filed in nearly all cases as aiding the title.

SECTION 22. Costs, Attorney's Fees, Affidavit.

(1) An affidavit containing a detailed account of the costs of the foreclosure including attorney's fees, and setting forth that the same have been absolutely and unconditionally paid or incurred, shall be made by the person conducting the foreclosure and filed within twenty days after the foreclosure sale, in default of which none shall be allowed. The affidavit shall remain on file for six years.

(2) At any time within one year after the sale, the mortgagor may recover from the record owner of the mortgage three times the amount of any sums charged as costs but not absolutely paid or incurred.

(3) Costs of foreclosure which shall be allowed to the person foreclosing are the amounts actually paid or incurred (a) for publishing the notice of sale, (b) to the sheriff for holding the sale and executing the certificate of sale,

his fee therefor of \$3.50, (c) to the recording officer for recording and filing the certificate of sale and evidence of foreclosure and costs, his fees allowed therefor, (d) for any other expenses necessary to complete the foreclosure, and (e) to the attorney conducting the foreclosure as fees therefor not exceeding the following sums: when the debt due secured by the mortgage is \$500 or less, \$25; over \$500 and not over \$1,000, \$50; over \$1,000 and not over \$5,000, \$75; over \$5,000 and not over \$10,000, \$100; over \$10,000 and not over \$40,000, \$200; over \$40,000, $\frac{1}{2}\%$ on such debt. But if the foreclosure proceedings cease before sale, the attorney's fees shall not exceed one-half such sums.

Costs including attorney's fees, as above specified, shall be allowed without any provision therefor in the mortgage; and any provision therein for a larger amount shall be void, but any provision for a smaller amount shall be valid.

(1) See Minn., G. S. 1913, Sec. 8140.

(2) See Minn., G. S. 1913, Sec. 8141.

(3) See Mich., C. L. 1915, Sec. 14968; Minn., G. S. 1913, Sec. 8170-71; N. D., C. L. 1913, Sec. 8098, Laws 1919; Ch. 130; S. D., R. C. 1919, Sec. 2895, 2606; Wyo., C. S. 1920, Sec. 4638.

One of the features of the act is to make the costs of foreclosure reasonable and to standardize them. This section adopts the schedule of attorneys' fees provided in Minnesota, (increasing them over \$40,000), which seems to be generally regarded as fair for the services usually required, which are but a fraction of the work required in foreclosure by action. Michigan provides as attorneys' fees \$15 for amounts not over \$500, \$25 for amounts between \$500 and \$1,000, and \$35 for amounts over \$1,000. North Dakota provides for an attorneys' fee of \$25; and South Dakota is also \$25. Yet the method is generally used in all three states. These amounts seem to be too low; and it is understood that they are frequently supplemented by additional sums paid by the mortgagee personally to the attorney. In Wyoming, on the other hand, the statute sets no limit to what may be stipulated in the mortgage; and this is said to have led to abuse in charging exorbitant fees.

The draft provides for allowance of statutory attorneys' fees whether specified in the mortgage or not. In this way the mortgage can be shortened. Of course fees in excess of the statute are not permitted to be allowed by the mortgage.

Since the property is usually bid in by the mortgagee for the amount of the mortgage, subject to the right of redemption, it is of no advantage to offer a commission as an inducement to secure the best price possible. The attorney foreclosing would usually draw the certificate of sale. Under such circumstances a small fixed fee is provided for the sheriff.

REDEMPTION

SECTION 23. Waste During Redemption Period, Receiver.

(1) During the period of redemption the mortgagor shall not commit waste, and the purchaser shall have such action or remedy for waste, including injunction, as he would have as owner of the premises. During such period the mortgagor shall keep the premises in repair, shall use reasonable diligence to continue to keep the premises yielding an adequate income, and shall out of the rents and profits pay current taxes before a penalty accrues and interest due on any prior incumbrance, keep the premises insured for the protection of the purchaser, and in case of a leasehold pay the rent and other sums due under the lease, and failure to do so shall constitute waste. In case of waste committed or danger of waste, a receiver of the premises appointed before sale, shall continue, unless otherwise directed by the court, or, if there be no such continuing receiver, a receiver may be appointed to take possession of and preserve the property. After performing the duties above required of the mortgagor, and paying the expenses of the receivership, the receiver shall pay to the mortgagor the balance of the proceeds.

(2) If the facts would justify the appointment of a receiver under this section, but one is not applied for, and if the premises be abandoned by the mortgagor, the purchaser may take possession, and shall be subject to the same duties and liabilities for the care of the premises and for the application of the rents and profits as would a receiver.

(3) If a receiver is continued or appointed or the purchaser enters into possession under this section, the receiver or purchaser or his agent shall within five days after demand in writing by the mortgagor file with the sheriff his affidavit setting forth the amount of the balance of the proceeds due to the mortgagor under this section, and the mortgagor may on redeeming pay the sum required to redeem by section 25 less such amount, in which case such balance shall be paid to the purchaser.

Subdivision (3) is new. Its purpose is to give the mortgagor who redeems, proper credit for receivership funds. The words "waste committed or" have been added in the first part of the third sentence of (1).

Compare Mich., C. L. 1913, Sec. 12929-30; Minn., G. S. 1913, Sec. 8089; N. D., C. L. 1913, Sec. 7761, 7762; S. D., R. C. 1919, Sec. 2690.

The provisions in regard to repairs, payments of taxes, insurance premiums, interest on prior mortgages and rent, are not in the statutes of the states referred to. It would seem that if the mortgagor is to have possession for a considerable redemption period such as a year, he should keep up the payments referred to out of the rents and profits, especially since on certain classes of property repairs, taxes and insurance for a year amount to a considerable per cent of the value of the property. Protection against depreciation of the property during the period of redemption from these causes should increase the amount which the mortgagee would be willing to loan.

The remedy of a receiver to prevent waste would probably be allowed in most states without a statute, but is here specied for certainty. The expense of receivership proceedings makes them impractical in the case of many small mortgages; and hence in case of waste rights are given to the mortgagee directly which a receiver would have to prevent the waste. This equivalent of a receiver without applying to the court is a wholly new idea as applied to mortgages.

SECTION 24. Taxes, etc. Paid by Purchaser, Repayment. During the period of redemption, the purchaser may pay any taxes on which any penalty or interest would otherwise accrue, the premiums upon any policy of insurance necessary to keep the buildings upon the premises insured for protection of the purchaser, any interest or any part of the principal in default upon any prior incumbrance, and in case of a leasehold, any accrued rent and any other sums due under the lease; and the sums so paid, if proved before redemption as required below, with interest at the mortgage rate after due, shall be a part of the amount required to be paid to redeem. Such payments shall be proved by the affidavit of the purchaser, or his agent, which shall be filed and a copy thereof forthwith furnished to the sheriff, all at least ten days prior to the expiration of the mortgagor's redemption period and before any redemption is made.

The provisions for paying overdue principal on prior incumbrance, is new.

See Minn., G. S. 1913, Sec. 8172; N. D., C. L. 1913, Sec. 7754; S. D., R. C. 1919, Sec. 2888, 2889.

This section was not in the original statutes. It has been added in their growth.

SECTION 25. Redemption by Mortgagor.

(1) Within [one year] after the date of sale, being the mortgagor's redemption period, the mortgagor may redeem the

premises sold, by paying to the purchaser or for him to the sheriff, the sum for which the same were sold, with interest from the date of sale at the rate of the mortgage debt after due, together with any further sums payable pursuant to the preceding section; and a certificate of redemption shall be executed and recorded as hereinafter provided.

(2) The sheriff shall forthwith pay to the purchaser or other person from whom redemption is made, the redemption money paid to the sheriff under this or the following section.

The period of redemption is in brackets in this one section. It need be changed in no other place except in section 36 referring to foreclosure by suit.

See N. D., C. L. 1913, Sec. 8085-6, Sec. 7753-7760; S. D., R. C. 1919, Sec. 2887, 2682-2689, Wyo., C. S. 1920, Sec. 4635, 6007-6019.

Michigan, Minnesota, North and South Dakota all provide for a year of redemption following the sale, which in South Dakota can be extended to two years by payment of interest and taxes by the mortgagor at the end of the first year. In Wyoming the period is six months with three months additional for judgment creditors.

An extended redemption period is found in most states. The present minimum periods in the various states to get title after default, are: 10 states, 21 days; 19 states, one year or more; 7 states, 6 to 11 months; 1 state, 50 days; 11 states, court action determines time. In states foreclosing in Court, the time for court action should be added to above periods. Classifying the 28 states with foreclosure in court: in addition to time for court action 11 have no statutory period, 12 have one year or more, and 5 have 6 to 9 months statutory period of redemption. (See 1922 Handbook, 280.)

An adequate redemption period is one of the features of the act. One year seems to be the period most generally accepted as fair to all parties. If this period is unsatisfactory in any state it may be easily changed in the act by changing the words in brackets in this one section.

Distinction is made between redemption by the mortgagor, which by definition includes the owner of the premises or part thereof, and redemption by a subsequent lienor under the next section. The owner has a year to redeem; and redemption by him annuls the sale. The redemption by lienors is in order of priority, and must come after the year. It does not annul the sale, but gives the lienor redeeming title under the sale (Sec. 28). It seems that one foreclosure should be sufficient, and that under such foreclosure a subsequent lienor should get title on redeeming if the owner does not redeem without requiring the subsequent lienor also to foreclose, as is the case in Michigan.

By definition (Sec. 1) a subsequent mortgagee is classed as a lienor.

SECTION 26. Redemption by Lienor.

(1) If no such redemption be made by the mortgagor, the lienor having the lien, senior in record or in entry, legal or equitable, upon the mortgaged premises, or some part thereof, subsequent to the mortgage, may redeem within ten days after the expiration of the mortgagor's redemption period, by paying the amount required of the mortgagor by the preceding section; and each subsequent lienor in succession, according to such priority of his lien, may also redeem within five days after the time allowed the prior lienors, by paying the amount paid by the person from whom redemption is made with interest, and the amount of all such liens prior to his own held by such person as are evidenced as required in this section, or, if no lienor prior to himself has redeemed, then by paying the amount required of the mortgagor by the preceding section. No lienor shall be entitled to redeem, unless within the mortgagor's redemption period, he files for record a notice of his intention to redeem, and the lien appears by instruments duly recorded or is a judgment lien. No lienor shall be entitled to redeem under this section subsequent to thirty days after the expiration of the mortgagor's redemption period, unless his lien appears by instrument duly recorded prior to the foreclosure sale, or the lien existed prior to such sale as a judgment lien.

(2) The lienor redeeming shall pay to the person holding the right acquired under the sale, or for him to the sheriff, the amount required to redeem, and shall produce to such person or sheriff documents evidencing his right to redeem as follows:

(a) the original mortgage, assignment or other document evidencing the original lien and also any assignment thereof under which he claims a right to redeem, with the certificate of record endorsed thereon, or a certified copy thereof or of the record thereof or of any files evidencing such lien or assignment, or a certified memorandum of the place of recording or filing the same, or in case of a judgment, a certified copy of the docket thereof, or if any such document is not entitled to

be recorded or filed, then the original thereof verified by the affidavit of himself or some person acquainted with the signature of the assignor or maker; and

(b) an affidavit of himself or his agent showing the amount then actually owing on his lien.

Forthwith after such redemption the lienor redeeming shall deposit such documents with the sheriff who shall preserve the same in his office for one year thereafter, for which service his fee shall be one dollar.

The last clause of the first sentence in subdivision (1) relating to the amount paid on redemption by a subsequent lienor from the purchaser, is new, to clear up doubt as to the meaning. The last sentence of (1) is new. It is to prevent long extensions of the redemption period by the owner filing a series of small mortgages near the end of his redemption period, running to his friends, which is sometimes done under this system of redemption.

See Minn., G. S. 1913. Sec. 8147-8; For Mich., N. D., S. D., and Wyo., see citations under Sec. 25.

This section follows the Minnesota provisions. There is considerable variation among the states on the matter of redemption by lienors. The method here proposed has several advantages:

(1) Notice of intention, to redeem must be filed within the year. The purchaser then knows by the end of the year whether or not his title is clear.

(2) The redemption must be in order of priority. This avoids unnecessary redemptions and any doubt or unfairness as to the amount required to redeem, which may arise when a prior lienor must redeem from one subsequent to him but who has anticipated him in redemption. The senior lienor should have the first chance. In North and South Dakota, and in Michigan and New York on redemption from a sale on execution, there is no requirement that the prior lienor shall have the first opportunity; but if a prior lienor redeems from one subsequent, he need not pay the amount of the latter's lien.

(3) The period during which any one lienor except the first, may redeem is five days. In North and South Dakota it is sixty days; and in Michigan and New York the period is three months for all lienors in case of sale on execution. It is desirable to have redemptions disposed of and the title clear as soon as possible after the period expires; and five days seems sufficient. A longer period would unduly prolong the unsettled condition of the title by numerous notices by redemptioners.

SECTION 27. Certificate of Redemption, Record.

The person from whom such redemption is made, or the sheriff to whom the money is paid, shall execute to the person redeeming a certificate of redemption containing:

(1) The name of the person redeeming, and the amount paid by him;

(2) A description of the sale, and of the premises redeemed;

(3) A statement of the claim upon which such redemption is made, and, if upon a lien, the amount claimed to be owing thereon at the date of redemption.

If redemption be made by the mortgagor, his certificate shall be recorded in the county where the sale is held, within four days after the expiration of his redemption period, and, if made by a lienor, his certificate shall be recorded in such county within two days after his redemption. Unless so recorded, such certificate shall be void as against any person redeeming in good faith from the person or lien so redeemed from.

The recording officer shall note on the margin of the record of the certificate of sale, a reference to each such certificate of redemption and the place of its record.

See Minn., G. S. 1913, Sec. 8149. For Mich., N. D., S. D., and Wyo., see citations under Sec. 25.

This follows the Minnesota provisions. North and South Dakota, which have a deed in addition to the certificate of sale, provide that the deed shall run to the last redemptioner. This causes unnecessary trouble, especially as the sheriff making the sale has often gone out of office.

SECTION 28. Effect of Redemption. If redemption be made by the mortgagor, it annuls the sale and leaves the premises subject to all liens which would have existed if no sale had been made, except the lien of the foreclosed mortgage, which is discharged by the sale. If redemption be made by a lienor, his certificate of redemption, duly recorded, operates as an assignment to him of the estate and interest acquired by the purchaser at the sale, subject, however, to the rights of persons who may be entitled subsequently to redeem. If a lienor redeeming be the last person to redeem, his lien claim shall be satisfied in the amount by which the fair value of the premises at the time of redemption exceeds the sum which he paid to redeem.

The first sentence has been reworded to remove doubt as to the effect of redemption on liens.

See Minn., G. S. 1913, Sec. 8150. For Mich., N. D., S. D., and Wyo., see citations under Sec. 25.

See note under Section 25. The last sentence is intended to cover the point whether when a lienor acquires property on redemption any surplus value inures entirely to his benefit or must be credited upon his lien. It adopts the rule by decision found in Minnesota and other states, though apparently contrary to some New York decisions which hold the surplus value a "windfall."

SECTION 29. Action to Redeem, Extending Time. If an action is commenced prior to the expiration of the time for redemption, to redeem from or to set aside the mortgage or the sale, the court shall in such action have control over the redemption from the sale, including the power to extend the time allowed for redemption by the mortgagor or any person entitled to redeem, to such time and on such terms and conditions, as to security, possession of the premises and otherwise, as may be equitable and just, to fix the manner and terms of redemption from the sale and to permit redemption therefrom by anyone equitably entitled to redeem, although not entitled to redeem under the foregoing provisions of this act. As a condition of extending the period of redemption, a bond approved by the court shall be required sufficient in amount to pay the costs of the action and all damages arising from such extension.

The section affords protection to the mortgagor who disputes the mortgage or foreclosure and has failed to enjoin the sale, and also to one having a right to redeem but whose lien is not of record and he may not redeem under section 26. The time to redeem, however, may only be extended incidental to the action if bond is given. Compare Minn., G. S. 1913, Sec. 8151.

SECTION 30. Recovery of Possession. After the expiration of the mortgagor's redemption period, the person holding the right acquired under the sale may recover possession of the premises from the mortgagor or any one holding under him, by an action [in unlawful detainer] as from a tenant for the non-payment of rent, or by any other existing remedy.

See Mich., C. L. 1915, Sec. 13240; Minn., G. S. 1913, Sec. 7658; N. D., C. L. 1913, Sec. 9069; S. D., R. C. 1919, Sec. 2171; Wyo., C. S. 1920, Sec. 6622.

The words "unlawful detainer" may be changed to suit the name of the action used in the particular state.

SECTION 31. Limitation of Action to Question Foreclosure.

No such sale shall be held invalid or set aside unless the action or defence in which its validity is called in question be commenced

or interposed before the purchaser has gone into possession of the premises under a duly recorded certificate of sale and has occupied the same for three successive years and paid the current taxes thereon during such period, or has without possession paid the current taxes thereon under such recorded certificate for five successive years during which time the premises have not been occupied by the mortgagor. This period of limitation shall not be extended by any disability.

See Minn., G. S. 1913, Sec. 8143-44.

A short statute of limitations on attacks on foreclosure proceedings for defects therein, is new. It should help decidedly in keeping titles clear. The mortgagor would have knowledge of the foreclosure if the purchaser goes into possession or pays taxes, and therefore should act promptly if he relies upon any defects in the proceedings. South Dakota and some other states have a three year statute of limitations for attacking recorded tax certificates, even without possession or the payment of taxes. S. D., R. C. 1919, Sec. 6825, 2292.

It has been the practice of states having this system of foreclosure to pass curative acts applying to foreclosures defective because of mistakes in the publication, etc. This section will render such curative acts unnecessary.

SECTION 32. Foreclosure for Installment. A foreclosure by power of sale for less than the whole amount owing on a mortgage exhausts the mortgage lien on that part of the premises sold on the foreclosure, but leaves the mortgage and power of sale in force on the remainder of the premises as security for sums not due at the date of the sale.

The section has been changed. In former drafts it permitted foreclosure for an installment as on an independent mortgage, keeping the mortgage alive in all respects as to subsequent installments, which is the existing provision in the states; but this provision has been criticised as creating complicated situations and doubt as to the title, with a series of successive sales of the same property on the same mortgage, and as interfering substantially with the right of redemption.

SECTION 33. Power of Sale, Authority to Include, One Coupled with an Interest, Not Revoked.

(1) Authority given by a will, power of attorney or otherwise, to mortgage real property implies authority to include a power of sale.

(2) A power of sale given in any mortgage shall be deemed a part of the security, and in the absence of any provision to the contrary in the mortgage shall vest in and may be executed as pro-

vided in this act by any person who becomes the record owner of the mortgage by assignment or otherwise.

(3) The death, insanity or other disability of a mortgagor, or any transfer or sale of the premises by him, occurring subsequent to the execution of the mortgage, shall not revoke or suspend a power of sale therein.

If foreclosure is to be made generally by power of sale, as this act contemplates, the validity of the power should be protected against certain objections. That is the purpose of (1) which protects the power of sale when given by an agent or one having power to mortgage generally, of (2) which protects the power of sale when the mortgage passes from the mortgagee, and of (3) which protects the power when the mortgagor is disabled or dies. These sections avoid any question as to the points involved.

(2) See Mich., C. L. 1915, Sec. 11651; Minn. G. S. 1913, Sec. 6785.

(3) With a year for redemption, it does not seem necessary to provide that foreclosure shall not be had within a certain period after the death of the owner of the premises. Where foreclosure is by sale under power without redemption right, some such protection is found in the statutes of certain states, as Missouri; but such a provision raises a serious question as to the validity of the sale and title acquired thereby.

SECTION 34. Enjoining Foreclosure. The mortgagor or any lienor who is subsequent to the mortgage or whose priority to the mortgage is in question, shall be entitled to an injunction restraining the proceedings to foreclose a mortgage by exercise of power of sale under this act at any time before the sale, if it appears that there is a reasonable doubt as to the amount due, or as to the right to foreclose the mortgage therefor, or that there is any question as to rights under the mortgage the determination of which in a court proceeding would be interfered with or made more hazardous if foreclosure were had by exercise of power of sale under this act; and foreclosure shall thereafter proceed by suit or action in court, which may be by counterclaim or cross-bill in the injunction suit or action. No injunction bond shall be required. Service upon the person conducting the foreclosure shall constitute service upon the person foreclosing. This section shall extend and not limit the power of the court otherwise existing to restrain foreclosure by exercise of power of sale.

See N. D., C. L. 1913, Sec. 8074; S. D., R. C. 1919, Sec. 2876.

Once the sale is held and the period of redemption started running, it cannot be stopped. Therefore if there is a dispute about the mortgage or the amount due thereon, the mortgagor must enjoin the sale if he wishes to get the dispute settled in court without incurring the hazard of losing the property. Foreclosure then proceeds by action.

This section is based on the theory that foreclosure under this act by proceeding outside of court is intended only to apply to cases where there is no dispute about the mortgage or the amount due thereon, and that therefore injunction should be freely granted against this method of foreclosure if it appears that the right of the mortgagee to foreclose is not entirely clear. It recognizes the right of the mortgagor to have the validity of the mortgage and the amount owing thereon adjudicated. The section provides that the mortgagor need not make out a prima facie case to secure an injunction, but need only establish the existence of a reasonable doubt which should be settled in court; and it also eliminates the requirement of an injunction bond. Since foreclosure by action is much more expensive for the mortgagor he will not seek an injunction unless there is a bona fide dispute.

SECTION 35. Forms in Foreclosure.

(1) The following forms of notice of foreclosure sale, certificate of foreclosure sale and certificate of redemption, may be used for power of sale foreclosure and redemption therefrom, and may be altered as circumstances require; but the use of other forms is not forbidden or invalidated.

(2) The blank spaces in the forms indicate where appropriate matter is to be supplied to complete the form. The words in parenthesis are no part of the forms, but indicate what matter is to be supplied to complete them, or changes or additions that may be made in or to them.

(3) NOTICE OF FORECLOSURE SALE

Default having been made in the conditions of a mortgage executed by _____, mortgagor, to _____, mortgagee, (or trustee), dated the _____ day of _____ 19____, and recorded in the office of (give office, date and place of record), which mortgage was duly assigned to _____ by assignment dated _____ and recorded in said office (give date and place of record) (likewise show any further assignments, and the appointment of a personal representative when foreclosure is by him),

and being now the record owner of said mortgage,
Notice is Hereby Given, That by virtue of the power of sale therein, said mortgage will be foreclosed by a public sale of the following mortgaged premises (describe the premises).

Such sale will be held at [the sheriff's office at the Court House] in the (give City, County and State) on the day of 19 , at o'clock M. by the sheriff of said county to satisfy the amount due on the mortgage at the date of sale and the costs of foreclosure. The amount claimed to be due on said mortgage at the date of the sale, exclusive of costs, is \$.
Dated

(Name and address) (Name and address)
Attorney for Record Owner . Record owner of the Mortgage.

(4) CERTIFICATE OF FORECLOSURE SALE

I, , as Sheriff of the County of and State of , do hereby certify that by virtue of a power of sale contained in a mortgage executed by , mortgagor , to , mortgagee , (or trustee) dated , and recorded in the office of (give office, date and place of record), and in pursuance of the notice of foreclosure (if desired, the name of newspaper and place and dates of publication of the notice of sale can be included), I did, at the time and place specified in such notice, to-wit: (give time and place) (if the sale was postponed, recite each postponement, giving the time to which postponed, and recite that the sale was made at the last time to which postponed), expose for sale, and did sell at public auction, the following premises described in said mortgage, to-wit: (describe premises) to for the sum of \$ (if sold in separate parcels, give separate description of each parcel and name of purchaser and amount paid for each parcel) he being the highest bidder, and that being the highest price bidden therefor. (If the premises were offered as separate tracts and no bids or insufficient bids received, and the whole then offered as one tract, this may be recited.) That the sale was openly and lawfully conducted, and that the said premises are sub-

ject to redemption at any time within [one year] from the day of sale, as provided by law.

In witness whereof I have executed this certificate of sale this
day of 19 . (Or use other testimonium
clause. Add signature of sheriff by himself or by a deputy, and
other formalities of execution.)

(5) CERTIFICATE OF REDEMPTION

I, , as Sheriff of the County of and
State of , do hereby certify that (name and address
of person redeeming) has this day paid to me the sum of \$
in redemption of the following described premises (describe
premises redeemed) from the sale thereof made on (date of sale)
on the foreclosure of a mortgage on said premises executed by
, mortgagor , to , mortgagee , (or
trustee) dated and recorded in the office of (give
office, date and place of record) at which sale said premises were
sold to for the sum of \$, the certi-
ficate of which sale was recorded in the office of (give office, date
and place of record.)

I further certify that such redemption was made by said
upon the claim that he is the owner of the premises
above described. (If redemption is by a lienor, state that he re-
deems upon the claim that he has a lien on the premises, and
identify the lien by giving parties, date, and place of record, or
other identifying facts, of the original lien instrument and assign-
ments thereof. Recite the amount claimed to be owing on the lien
at the date of redemption, and that the documents evidencing his
right to redeem were produced and exhibited to the sheriff as re-
quired by law.)

In witness whereof I have executed this certificate of redemp-
tion this day of 19 . (Or use other testi-
monium clause. Add signature of sheriff by himself or by a
deputy, and other formalities of execution.)

(The above form is for use when redemption is made by pay-

ment to the sheriff; and fitting changes must be made when the certificate is executed by the owner of the sheriff's certificate of sale.)

New section. A desirable part of simplifying foreclosure is to furnish forms. This tends to uniformity and standards, to avoidance of mistakes, to shorter forms, to saving of records and easier examination of titles. Forms of power of attorney, affidavits, notice of intention to redeem, etc., are not included.

SECTION 36. Court Foreclosure. Mortgages may be foreclosed by suit or action in court, as well as by exercise of power of sale as hereinbefore provided.

[The judgment or decree for sale of the premises in a foreclosure by suit or action in court, shall provide that the officer selling the same shall make report to the court. Upon the coming in of the report, the court shall grant an order confirming the sale, or may order a resale on such terms as are just.

On confirmation of the sale, the officer selling shall forthwith execute the proper certificate of sale, in form as provided in section 19 and reciting the judgment or decree, which certificate shall be recorded within twenty days after such confirmation.

Section 19, except the last paragraph and except as above provided, and sections 23, 24, 25, 26, 27, 28, 30 and 31 shall apply to foreclosure of mortgages by suit or action in court, except that the mortgagor's redemption period shall be [one year] after the date of the order confirming the sale.

The court, however, in the judgment or decree for sale of the premises, where it appears to be for the best interests of the parties, may fix a shorter mortgagor's redemption period than that above specified in this section, or may adjudge that the sale shall be final without any right of redemption therefrom; but, in either case, the court also in such judgment or decree shall fix a period after entry of the judgment within which the sale may not be held, of such length that the total of such period and the mortgagor's redemption period shall be [one year].

Any existing procedure for strict foreclosure without sale is not affected by this section].

This section is new. It makes the redemption features by power of sale as found in this Act apply to foreclosure in court. States having power of sale foreclosure similar to this Act, have the same redemption provisions for both kinds of foreclosure. Last year the Conference voted not to prepare a Uniform Act for foreclosure in court, the diversities in court procedure in the different states being too great to make uniform a single proceeding. However, it seems possible to provide for a uniform form of Certificate of Sale and uniform redemption features, which can be dealt with separately from the suit in court, as is done in this section. This operates to make uniform in the states a considerable part of such foreclosure proceedings.

If it is desired to make the redemption features of foreclosure by power of sale apply to sale on execution, it can be done by passing an act providing in substance as follows:

"The officer making a sale of real property on execution under a judgment shall forthwith execute to the purchaser a certificate of sale, in form as provided in section 19 of the Uniform Mortgage Act, which shall be recorded within 20 days after such sale, and when so recorded, upon expiration of the time for redemption, operates as a conveyance to the purchaser. The provisions of section 19 relating to the form of the certificate, and sections 23 to 28 inclusive of the Uniform Mortgage Act, shall apply to such sale, after substituting "judgment debtor and his successors in interest" for "mortgagor," "judgment" for "mortgage," and "sold" for "mortgaged," where those words occur therein."

PART III

SHORT FORMS

SECTION 37. Uniform Short Form Mortgage.

(1) In the forms in Part III of this act, the blank spaces indicate where appropriate matter is to be supplied to complete the form. The words in parenthesis are no part of the forms, but indicate what matter is to be supplied to complete them, or indicate changes or additions that may be made in or to them. The words in parenthesis in the statutory equivalents of the forms indicate what matter, used to complete the forms, is to be included in such equivalents to complete them.

The use of the following short form mortgage of real property is lawful, but the use of other forms is not forbidden or invalidated:

UNIFORM SHORT FORM MORTGAGE

This statutory mortgage, made this day of ,
19 , between (give name and address), mortgagor , and (give
name and address), mortgagee ,

Witnesseth, that to secure the payment of (give description of indebtedness and instruments evidencing same), the mortgagor hereby mortgages to the mortgagee (give description of premises "subject to" any incumbrances thereon).

And (, one of) the mortgagor covenants with the mortgagee the following statutory covenants:

1. To warrant the title to the premises.
2. To pay the indebtedness as herein provided.
3. To pay all taxes.
4. To keep the buildings insured against fire for \$, and against (give other hazards insured against and amount of such other insurance) for the protection of the mortgagee .
5. That the premises shall be kept in repair and no waste shall be committed.
6. That the whole of the principal sum shall become due after default, in the payment of any installment of principal or interest, or of any tax, or in the performance of any other covenant, days after notice.

If default be made in any payment or covenant herein, the mortgagee shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorney's fees.

In witness whereof the mortgagor has duly executed this mortgage. (Or use other testimonium clause. Add signatures and other formalities of execution.)

(2) Any of the covenants or the power of sale in the short form mortgage may be omitted. Additional clauses, conditions, covenants and provisions may be added, but shall be designated as not statutory.

The language of the short form mortgage shall have the meaning and effect stated in the following subdivisions of this section.

MEANING OF COVENANTS IN SHORT FORM MORTGAGE

(3) The expression contained in the short form mortgage "the mortgagor hereby mortgages to the mortgagee," shall be equivalent to the following:

“The mortgagor also in consideration of one dollar, paid by the mortgagee, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, release and convey unto the mortgagee, his heirs, successors, and assigns forever (premises ‘subject to’ any incumbrances thereon as described in the mortgage), together with the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all the estate, rights and interests of the mortgagor, including all homestead and dower rights and all inchoate and contingent rights, in and to said premises; to have and to hold the above granted premises unto the mortgagee, his heirs, successors, and assigns forever; Provided, that if the mortgagor, his heirs, executors or administrators, shall pay unto the mortgagee, his executors, administrators or assigns, the said sum of money mentioned in said (instruments evidencing indebtedness) and the interest thereon, at the time and in the manner aforesaid, and shall keep and perform each and every covenant herein contained on the part of the mortgagor to be kept and performed, that then this mortgage, and the estate hereby granted, shall cease, determine and become void.”

(4) The respective statutory covenants contained in said mortgage shall have the following equivalents:

I. Covenant 1 is equivalent to:—“That the mortgagor is lawfully seized of the premises; that he has good right to mortgage the same; that the same are free from all encumbrances except as above stated; and that the mortgagor will warrant and defend the title to the same against all lawful claims.”

II. Covenant 2 is equivalent to:—“That the mortgagor will pay the principal sum of money secured by this mortgage, and also the interest thereon as herein provided, and also, in case the mortgage is foreclosed by suit, the costs and expenses of the foreclosure, including reasonable attorney’s fees, which shall be allowed out of the proceeds of the sale.”

III. Covenant 3 is equivalent to:—“That until the indebtedness hereby secured is fully paid, the mortgagor will pay all taxes, assessments, and other governmental levies which may be assessed

against or become liens on the premises, before any penalty, interest or other charge accrues, and in default thereof the mortgagee may pay the same, and the mortgagor will repay the same forthwith with interest at the mortgage rate, and the same shall become a part of the debt secured by the mortgage."

IV. Covenant 4 is equivalent to:—"That the mortgagor will, during all the time until the indebtedness secured by the mortgage is fully paid, keep the buildings on the premises insured against loss or damage by fire, to the amount of (the sum specified in mortgage), and against loss or damage by (any other hazards specified) to the amount of (sums specified therefor), and in a company to be approved by the mortgagee, and will assign and deliver the policies of such insurance to the mortgagee, so and in such manner and form that he shall at all times, until the full payment of said indebtedness, have and hold the said policies as a collateral and further security for the payment of said indebtedness, or at the option of the mortgagee will make such policies payable in case of loss to the mortgagee as his interest may appear and will deposit them with the mortgagee, and in default of so doing, that the mortgagee may make such insurance from year to year, or for one or more years at a time, and pay the premiums therefor, and that the mortgagor will forthwith repay to the mortgagee the same, with interest at the mortgage rate, and that the same shall become a part of the debt secured by the mortgage in like manner as the principal sum. The mortgagee may retain any moneys received by him on the policies, but the same shall apply in part payment of the mortgage."

V. Covenant 5 is equivalent to:—"That the mortgagor will at all times keep the premises in good repair and suffer and commit no waste thereon, and that no building shall be removed or demolished without the consent of the mortgagee."

VI. Covenant 6 is equivalent to:—"That should any default be made in the payment of any installments of principal or any part thereof, or in the payment of any interest or any part thereof, on any day whereon the same is made payable, or in the payment

of any tax, assessment, or other governmental levy, as herein provided, or should any other default be made in any of the covenants of this mortgage, and should the said principal, interest, tax, assessment or levy, or the repayment thereof to the mortgagee, remain unpaid and in arrear, or should such other default in any covenant continue and the covenant remain unperformed, for the space of (time specified in the mortgage), after written notice by the mortgagee of the default or breach of covenant and that the whole sum will become due unless payment or performance is made within such time, delivered or mailed to the mortgagor or to his successor in interest at his last known address according to the mortgagee's best information, then the whole sum including accrued interest, secured by the mortgage, shall, at the option of the mortgagee, become and be due and payable immediately thereafter."

(5) The statutory power of sale clause contained in said mortgage immediately following covenant 6, shall be equivalent to the following:

"If default be made in the payment of the principal or interest or any part thereof, or of taxes, assessments, insurance premiums, or any other sum, when the same becomes due as herein provided, the mortgagor hereby authorizes and empowers the mortgagee forthwith to foreclose this mortgage, and to sell the mortgaged premises at public auction according to the statute in such case provided, and to apply the proceeds of the sale to pay all amounts then due on the mortgage, including principal, interest, and the amount of any taxes, assessments and insurance premiums and any other sum which may then be due to the mortgagee, and also to pay all costs and expenses of such foreclosure sale, including statutory attorney's fees, which costs, expenses and fees the mortgagor agrees to pay."

(6) All the obligations of the mortgagor as set forth in this section shall be construed as applying to his heirs, executors and administrators or successors; and all the rights and powers of the mortgagee shall inure for the benefit of and may be exercised by his executors, administrators, successors or assigns.

(7) The following covenant may be added to the covenants of the short form mortgage:—"7. To pay principal and interest on prior mortgages." When so added it is equivalent to:—"That until the indebtedness hereby secured is fully paid, the mortgagor will pay when due, whether by acceleration or otherwise, all interest and principal and other sums owing to the mortgagee therein on any mortgage which is a lien on the premises prior to this mortgage, and in default of so paying all such interest and principal and other sums, the mortgagee herein may pay the same, and the mortgagor will forthwith repay the same with interest at the rate of this mortgage, and the same shall become a part of the debt secured by this mortgage in like manner as the principal sum."

The first paragraph, and also subdivision (7), which is intended for use in second mortgages, are new.

See Mass., G. L. 1921, Chap. 183, Appendix; N. Y., Cons. L. 1909, Chap. 52, Sec. 258 Schedule M. as amended by L. 1917, Ch. 681; S. D., R. C. 1919, Sec. 1566, 1567; Wyo., C. S. 1920, Sec. 4623.

Many states having statutory forms of mortgages as shown in the table in the 1922 report (1922 Handbook 280, Column VIII); but only in the few states where the covenants, and other terms of the mortgages are set forth at length either in another section of the law or in the mortgage itself, are the statutory forms used. New York and Massachusetts have been especially successful in providing a statutory form which is generally used, in perhaps ninety per cent of the cases. Where the short form is not used it is because there is no adequate statutory construction of covenants.

This section and the one following are based upon the New York statute. A short statement of the substance of each covenant is given in the form itself. While it makes the form longer, it indicates to the parties the nature of the mortgage agreement and permits certain covenants to be omitted if so desired. The word "statutory" is included in the form. It indicates that the statutory form is being used. It is so framed that if husband and wife join in the mortgage, only one may covenant if so desired.

The form is elastic, any covenant may be stricken out and additional covenants in the long form added.

CONSTRUCTION OF COVENANTS

See Mass., G. L. 1912, Chap. 183, Sec. 18-21; N. Y. Cons., L. 1909, Chap. 52, Sec. 254, as amended by L. 1917, Chap. 682.

The mortgaging clause is much longer than would otherwise be the case, so it may contain words sufficient for a complete conveyance in the different states. This section does not purport to simplify generally the language of conveyances but rather to adopt customary terms.

If it is desired to impose a penalty for the use of long forms when the short form is equivalent, the following paragraph can be added to the above section:

"The recording officer of any county may charge for recording any mortgage which contains long forms of any of the covenants or provisions given in the statutory short form of section 37, the sum of five dollars in addition to the fees otherwise chargeable for such recording."

SECTION 37A. Uniform Short Form Trust Mortgage.

(1) The use of the following short form trust mortgage of real property is lawful, but the use of other forms is not forbidden or invalidated:

UNIFORM SHORT FORM TRUST MORTGAGE

This statutory trust mortgage, made this day of
19 , between (give name and address), mortgagor , and
(give name and address), trustee ,

Witnesseth, that to secure the payment of (give description of indebtedness and instruments evidencing the same), the mortgagor hereby mortgages to the trustee in trust (give description of premises "subject to" any incumbrances thereon).

And (, one of) the mortgagor covenants the following statutory covenants:

1. To warrant the title to the premises.
2. To pay the indebtedness as herein provided.
3. To pay all taxes.
4. To keep the buildings insured against fire for \$, and against (give other hazards insured against and amount of such other insurance) for the protection of the holder of the indebtedness.
5. That the premises shall be kept in repair and no waste shall be committed.
6. That the whole of the principal sum shall become due after default, in the payment of any installment of principal or interest, or of any tax, or in the performance of any other covenant, days after notice by per cent of the indebtedness.

If default be made in any payment or covenant herein, the trustee shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorney's fees.

In witness whereof the mortgagor has duly executed this trust mortgage. (Or use other testimonium clause. Add signatures and other formalities of execution.)

(2) Any of the covenants or the power of sale in the short form trust mortgage may be omitted. Additional clauses, conditions, covenants and provisions may be added, but shall be designated as not statutory.

The language of the short form trust mortgage shall have the meaning and effect stated in the following subdivisions of this section.

MEANING OF COVENANTS IN SHORT FORM TRUST MORTGAGE

(3) The expression contained in the short form trust mortgage "the mortgagor hereby mortgages to the trustee in trust," shall be equivalent to the following:

"The mortgagor also in consideration of one dollar, paid, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, release and convey unto the trustee, his heirs, successors, and assigns forever (premises "subject to" any incumbrances thereon as described in the trust mortgage), together with the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all the estate, rights and interests of the mortgagor, including all homestead and dower rights and all inchoate and contingent rights, in and to said premises; to have and to hold the above granted premises unto the trustee, his heirs, successors, and assigns forever for the uses and purposes and upon the trusts herein set forth; Provided, that if the mortgagor, his heirs, executors or administrators, shall pay the said sum of money mentioned in said (instruments evidencing indebtedness) and the interest thereon, at the time and in the manner aforesaid, and shall keep and perform each and every covenant herein contained on the part of the mortgagor to be kept and performed, that then this trust mortgage, and the estate hereby granted, shall cease, determine and become void."

(4) The respective statutory covenants contained in said trust mortgage shall have the following equivalents:

I. Covenant 1 is equivalent to:—"That the mortgagor is lawfully seized of the premises; that he has good right to mortgage the same; that the same are free from all encumbrances except as above stated; and that the mortgagor will warrant and defend the title to the same against all lawful claims."

II. Covenant 2 is equivalent to:—"That the mortgagor will pay the principal sum of money secured by this trust mortgage, and also the interest thereon as herein provided, and also, in case the trust mortgage is foreclosed by suit, the costs and expenses of the foreclosure, including reasonable attorney's fees, which shall be allowed out of the proceeds of the sale."

III. Covenant 3 is equivalent to:—"That until the indebtedness hereby secured is fully paid, the mortgagor will pay all taxes, assessments, and other governmental levies which may be assessed against or become liens on the premises, before any penalty, interest or other charge accrues, and in default thereof the holder of the indebtedness or any part thereof, or the trustee, may pay the same, and the mortgagor will repay the same forthwith with interest at the mortgage rate, and the same shall become a part of the debt secured by the trust mortgage."

IV. Covenant 4 is equivalent to:—"That the mortgagor will, during all the time until the indebtedness secured by the mortgage is fully paid, keep the buildings on the premises insured against loss or damage by fire, to the amount of (the sum specified in trust mortgage), and against loss or damage by (any other hazards specified) to the amount of (sums specified therefor), and in a company to be approved by the trustee, and will assign and deliver the policies of such insurance to the trustee, so and in such manner and form that he shall at all times, until the full payment of said indebtedness, have and hold said policies as a collateral and further security for the payment of said indebtedness, or at the option of the trustee will make such policies payable in case of loss to the trustee as his interest may appear and will deposit them with the trustee, and in default of so doing, that the trustee or holder of the indebtedness or any part thereof may make such insurance from year to year, or for one or more years at a time,

and pay the premiums therefor, and that the mortgagor will forthwith repay the same, with interest at the mortgage rate, and that the same shall become a part of the debt secured by the trust mortgage in like manner as the principal sum. The trustee or holder of the indebtedness or any part thereof may retain any moneys received by him on the policies, but the same shall apply in part payment of the indebtedness."

V. Covenant 5 is equivalent to:—"That the mortgagor will at all times keep the premises in good repair and suffer and commit no waste thereon, and that no building shall be removed or demolished without the consent of the trustee."

VI. Covenant 6 is equivalent to:—"That should any default be made in the payment of any installments of principal or any part thereof, or in the payment of any interest or any part thereof, on any day whereon the same is made payable, or in the payment of any tax, assessment, or other governmental levy, as herein provided, or should any other default be made in any of the covenants of this trust mortgage, and should the said principal, interest, tax, assessment or levy, or the repayment thereof to the holder of the indebtedness or any part thereof, remain unpaid and in arrear, or should such other default in any covenant continue and the covenant remain unperformed, for the space of (time specified in the trust mortgage), after written notice by the holders of at least (amount specified in the mortgage) per cent in amount of the indebtedness then secured by the trust mortgage, or by the trustee at their request, of the default or breach of covenant and that the whole sum will become due unless payment or performance is made within such time, delivered or mailed to the mortgagor or to his successor in interest at his last known address according to the best information of such holders of the indebtedness, or of the trustee, then the whole sum including accrued interest, secured by the trust mortgage, shall, at the option of such holders of the indebtedness, become and be due and payable immediately thereafter."

(5) The statutory power of sale clause contained in said trust mortgage immediately following covenant 6, shall be equivalent to the following:

"If default be made in the payment of the principal or interest or any part thereof, or of taxes, assessments, insurance premiums, or any other sum, when the same becomes due as herein provided, the mortgagor hereby authorizes and empowers the trustee forthwith to foreclose this trust mortgage, and to sell the mortgaged premises at public auction according to the statute in such case provided, and to apply the proceeds of the sale to pay all amounts then due on the trust mortgage, including principal, interest, and the amount of any taxes, assessments and insurance premiums and any other sum which may then be due to the trustee or holder of the indebtedness or any part thereof, and also to pay all costs and expenses of such foreclosure sale, including statutory attorney's fees and trustee's fees, which costs, expenses and fees the mortgagor agrees to pay."

(6) All the obligations of the mortgagor as set forth in this section shall be construed as applying to his heirs, executors and administrators or successors; and all the rights and powers of the trustee or holder of the indebtedness or any part thereof shall inure for the benefit of and may be exercised by his successors in trust or his executors, administrators, successors or assigns.

(7) The following covenant may be added to the covenants of the short form trust mortgage:—"7. To pay principal and interest on prior mortgages." When so added it is equivalent to:—"That until the indebtedness hereby secured is fully paid, the mortgagor will pay when due, whether by acceleration or otherwise, all interest and principal and other sums owing to the mortgagee therein on any mortgage which is a lien on the premises prior to this trust mortgage, and in default of so paying all such interest and principal and other sums, the holder of the indebtedness or any part thereof or the trustee herein may pay the same, and the mortgagor will forthwith repay the same with interest at the rate of this mortgage, and the same shall become a part of the debt secured by this mortgage in like manner as the principal sum."

Covenant 6 is changed to permit the per cent of indebtedness required to join to accelerate the mortgage to be filled in. Subdivision (7) is new.

For those states where the trust mortgage is used for all loans, and for occasional use in other states, the short form trust mortgage is added.

The trust mortgage short form and statutory construction of clauses are made to parallel the mortgage clauses. The purpose of the two instruments is the same, except that a third person is introduced as trustee and the debt is frequently divided among many holders. A standard short form for large trust mortgages and bond issues is not practicable. This form is intended for smaller loans.

SECTION 38. Forms of Assignment, Satisfaction and Partial Release.

(1) The use of the following forms of assignment, satisfaction and discharge, and partial release of mortgages is lawful; but the use of other forms is not forbidden or invalidated.

(2) ASSIGNMENT OF MORTGAGE

In consideration of \$ _____ (name of assignor) hereby assigns to (name and address of assignee), that mortgage executed by _____, mortgagor, to _____, mortgagee, dated _____ and recorded in the office of (give office, date and place of record), (if desired, prior assignments may be briefly recited, giving parties thereto and office, date and place of record thereof), together with the ("note" or other instrument secured) and indebtedness therein mentioned, and covenants that there is now owing on said mortgage _____ dollars, and that he has good right to assign the same.

In witness whereof the assignor has duly executed this assignment this _____ day of _____, 19 ____ . (Or use other testimony clause. Add signature and other formalities of execution.)

(3) Any of the above covenants may be omitted, and other clauses, covenants and provisions may be added to the form.

(4) An assignment of mortgage in substantially the above form is sufficient to vest in the assignee for all purposes all the rights and interests of the assignor under the mortgage described and in and to the indebtedness owing thereon at the date of the assignment and the instruments evidencing such indebtedness; and it operates to appoint the assignee the irrevocable attorney of the assignor to collect, sue, foreclose and discharge the mortgage as

fully as the assignor might or could do, but at his own cost. The covenant in the above form that the assignor has good right to assign the mortgage, is equivalent to a covenant that he has good right and lawful authority to sell and assign the same in the manner aforesaid. The covenants of the assignor in the above form shall be construed as binding his heirs, executors and administrators or successors and as being for the benefit of the executors, administrators, successors or assigns of the assignee.

(5) SATISFACTION AND DISCHARGE OF MORTGAGE

(Name and address) does hereby certify that a mortgage executed by _____, mortgagor, to _____, mortgagee (or trustee), dated _____ and recorded in the office of _____ (give office, date and place of record) is, with the indebtedness described in and secured by such mortgage, fully paid and satisfied.

In witness whereof this satisfaction and discharge is duly executed this _____ day of _____, 19 ____ . (Or use other testimony clause. Add signature and other formalities of execution.)

(6) Any clauses, covenants or provisions may be added to the above form. It may be used by the trustee in a trust mortgage or his successor.

(7) A satisfaction and discharge of mortgage in substantially the above form is sufficient to discharge fully the mortgage and to release the mortgaged premises, and is as effective as a deed of release and a reconveyance to the owner of the premises. Such a discharge is sufficient, when recorded, to discharge the mortgage of record, and to authorize and direct the recording officer to discharge the same upon the record thereof.

(8) PARTIAL RELEASE OF MORTGAGE

In consideration of \$ _____, (name and address) hereby releases from a mortgage executed by _____, mortgagor, to _____, mortgagee (or trustee), dated _____, and recorded in the office of _____ (give office, date and place of record), the following described part of the mortgaged premises (give description of premises released).

In witness whereof this partial release is duly executed this
day of _____, 19 . (Or use other testi-
monium clause. Add signature and other formalities of execu-
tion.)

(9) Any clauses, covenants or provisions may be added to
the above form. It may be used by the trustee in a trust mort-
gage or his successor.

(10) A partial release of a mortgage in substantially the above
form is sufficient to fully release and discharge the released prem-
ises therein described from the lien and operation of the mort-
gage, and is as effective as a deed of release and a reconveyance
thereof to the owner. Such a partial release operates as though
it contained a recital that the remainder of the mortgaged premises,
not released, is held and retained as security, as heretofore, for
the balance of the indebtedness remaining unpaid on the mortgage.

New section. These additional forms add uniformity and are shorter
than usual, thereby saving recording space. The statutory description of
their effect makes them usable.

PART IV

INTERPRETATION

SECTION 39. **Liberal Construction.** The rule that statutes
in derogation of the common law are to be strictly construed shall
have no application to this act.

This and the remaining sections are found in many or all of the uniform
acts and give rules for the interpretation and effect of the Act.

SECTION 40. **Rules for Cases not Provided for in This Act.**
In any case not provided for in this act the rules of law and
equity including the law merchant, shall govern.

SECTION 41. **Uniformity of Interpretation.** This act shall
be so interpreted and construed as to effectuate its general pur-
pose to make uniform the law of those states which enact it.

SECTION 42. **Not to Apply to Existing Mortgages.** The
provisions of this act, except section eleven, shall not apply to

mortgages made and delivered before the act takes effect, but section eleven shall apply to mortgages made and delivered before the act takes effect. The parties however may agree that the provisions of the act may apply to existing mortgages.

Section eleven as a statute of limitations, can and should be made to apply to existing mortgages. A number of the elements of foreclosure by power of sale, such as the redemption period and right to possession, have been held to be part of the original rights created by the mortgage, which cannot be changed by subsequent statute. It is clearer therefore to except existing mortgages from the effect of the act.

SECTION 43. Short Title. This act may be cited as the Uniform Mortgage Act.

SECTION 44. Repeal. Sections are hereby repealed except as to mortgages existing at the time the act takes effect, and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Existing statutes covering the same matters as the act should be expressly repealed except as affecting existing mortgages.

SECTION 45. Time of Taking Effect. This act shall take effect from and after its passage, except section eleven which shall take effect one year thereafter.

Section eleven, being retroactive, should take effect only after a reasonable time allowed to enforce mortgages it would outlaw.

CHANGES IN ACT TO EXCLUDE TRUST MORTGAGES

Changes to be made in the Act to make it apply only to Mortgages other than Trust Mortgages, by any state which wishes to leave Trust Mortgages governed entirely by the present law.

SECTION 1. Subdivision (1). In the definition of "mortgage", strike out "and a trust mortgage", and add at the end of the sentence after a comma "but does not include a trust mortgage."

In the definition of "mortgagee" change "the trustee of a trust mortgage" to "holder of the mortgage."

In the definition of "record owner of the mortgage," strike out "and in the case of a trust mortgage means the trustee or his successor of record."

Strike out the definition of "trustee."

(2) Strike out all of subdivision (2) after the semicolon in the first sentence.

Add as a new subdivision the following:

"(3) The provisions of this act do not apply to trust mortgages."

SECTION 35. In each of the three forms in subdivisions (3), (4) and (5) strike out "(or trustee)" where used as part of the description of the mortgage.

SECTION 36. If it is desired to have the changes in court foreclosure apply to trust mortgages, add to this section the following:

"The provisions of this section shall apply to trust mortgages."

SECTION 37A. Strike out the entire section.

SECTION 38. Strike out, in subdivisions (5) and (8), "(or trustee)", and, in subdivisions (6) and (9), "It may be used by the trustee in a trust mortgage or his successor."

Changes necessary to except Trust Mortgages from the Application of Part II or Power of Sale Foreclosure.

SECTION 35. Change as above indicated.

Add as a new section:

SECTION 35A. **Trust Mortgages Excepted.** Trust Mortgages may not be foreclosed by power of sale under the provisions of Part II of this act, [but may be foreclosed by exercise of power of sale as heretofore].

SECTION 36. Change as above indicated, or by inserting "not" before "apply" in the indicated change.

REPORT OF THE COMMITTEE ON A UNIFORM CHATTEL MORTGAGE ACT

*To the National Conference of Commissioners on Uniform State
Laws:*

Appended hereto is a report of the draftsman and a new draft of the Uniform Chattel Mortgage Act.

We believe the Act to be one of real importance. It is now in its third year. It has been repeatedly worked over, with reference to existing law and to commercial needs.

But it is not a short Act. And the time allotted at the Conference for the consideration of this Act will inevitably be none too great. We therefore ask the cooperation of the individual Commissioners in preparing its discussion before the Conference. The issues involved are often complex, and need considered thought.

We trust, therefore, that the Commissioners will find time to examine the draft in detail, and make up their minds as to the points of policy involved, before the Act reaches the floor of the Conference. It is especially urged upon the Commissioners to read each section in connection with the relative comments, which go far to bring the policies involved into relief. Both the draft and the comments have been prepared with special reference to making the issues stand out as clearly as may be, for discussion.

Respectfully submitted,

GEORGE M. HOGAN, *Chairman.*

REPORT BY DRAFTSMAN TO THE COMMITTEE ON A UNIFORM
CHATTEL MORTGAGE ACT

Enclosed herewith is a new draft of the Act. The present draft is intended to be complete. The sections on Fixtures (Sec. 48) and transactions resembling Trust Receipts (Sec. 13), which were omitted from the last draft, are now included. Undoubtedly some cases which need covering are still omitted, and some features of policy remain uncertain. Yet the draft is believed to be ready for submission to the various business interests and practitioners who make use of chattel mortgages; and for presentation in detail to the Conference, with the request for definitive approval.

CHANGES SINCE 1923

The draft is in its framework like that which was presented to the Conference in 1923 and which, with minor modifications, was then approved in outline. Further modifications in detail have occurred, and numerous additions; but the structure and basic policies remain the same. The work since that time has run along four lines.

1. The problem of the *relations between mortgagor and mortgagee* has been taken up in considerable detail. It will be recalled that the draft of 1923 was largely directed at the rights of the mortgagee against third parties.

2. The Committee and the draftsman have devoted considerable effort to getting in touch with various businesses concerned with chattel mortgages, and to reaching an understanding of the conflicts of interest that arise in conjunction with such mortgages, as between mortgagor and mortgagee, and especially as between mortgagee and purchasers from or creditors of the mortgagor. The general policy which resulted from this study and which has determined the line taken in the draft on all doubtful points may be briefly stated thus: *to take a mortgage is to take a credit risk, and the mortgagee, as against third parties, must take the chances on his debtor's honesty; but, where any reasonable provision can be made for putting third parties on notice of the mortgagee's rights, such provision should be made and such notice should be effective.*

3. The draft has, in the past two years, been subjected to rigorous criticism of wording and omissions. It has, since 1923, been completely recast five times, in wording, substance and arrangement, in an effort to make it unified, complete, and clear, within the shortest possible space. The Committee have examined it section by section in repeated conferences during its various stages of growth. Various lawyers interested have examined and criticised it from the standpoint of their practice and their clients. Dean Bogert has prepared a section by section criticism in the light of his experience with the Conditional Sales Act and of the construction of that Act since its adoption. Professor Britton has twice made an exhaustive criticism of successive drafts, and has helped the draftsman greatly by preparing alternative language for almost every section. Professor Joseph P. Chamberlain, of the Legislative Drafting Bureau, at the outset made possible an exhaustive compilation of the statutory material on chattel mortgages. Mr. Joseph H. Cohen, now of the Office of the Attorney General of the United States, made a canvass of case law and of many phases of business conditions, in the light of the earlier drafts. Mr. John Caskey, of the Yale Law School, who had the great advantage of approaching the Act without that prior knowledge as to what it was *intended* to say which has handicapped us all, subjected the draft to a painstaking criticism in the light of the facts and decisions of over a hundred recent reported decisions on chattel mortgages. The draftsman worked through Dean Bogert's *Commentaries on Conditional Sales*, on the appearance of that work, with special reference to the multitude of situations there presented as they shed light on the problems a Chattel Mortgage Act has to meet, and on the effect of the present wording. Mr. Hogan has found methods of bringing the Act to the attention and criticism of more types of business interests than the draftsman had believed could exist.

The draft as it stands is therefore in no sense the product of any one or two or three men. It represents the persistent work and thought of a fairly large group. It has been altogether remarkable to observe how the opinions of the group coalesced with study and discussion, so that on almost no point is any divergence of

view left, among those who have collaborated. This fact seems to your draftsman to lend no little strength to the present draft.

4. The Committee have become increasingly convinced that the draft should be so prepared as to *eliminate all possible burden on legitimate business through requirements of form*, all possible litigation arising out of formal requirements, and *all invalidity of bona fide transactions because of defects in form*, as soon as such defects have been cured. The Committee are persuaded that fraud cannot be prevented by formal requirements. Penal provisions may be a deterrent. But the chief effect of formal requirements, as seen in the cases, is a mass of useless litigation coupled with much injustice through bona fide mortgages being held invalid. An effect not seen in the cases is a burden on the doing of honest business, inconvenient in any single instance and of vast extent in the aggregate.

OUTSTANDING INDIVIDUAL FEATURES OF THE DRAFT

The following discussion repeats some of what precedes, for completeness' sake.

In studying the draft, it is urged that Section 42 be examined first and with care, and in connection with the discussion thereunder. It is the key section of the Act. After that section, the reader may perhaps best take up the sections in order, beginning with Section 9. The sections preceding that are general sections and relatively unimportant, with the exception of the definitions; and the definitions are believed to take on character and meaning best by being consulted from time to time as necessary in reading the Act.

A. SUBSTANTIVE FEATURES.

1. *Elimination of all possible formalities, and full provisions for curative action where defects in form occur.* The draft proceeds upon the basis that it is futile to rely on form to prevent fraud; and that attempts to prevent fraud in this way pay too high a price when they burden all bona fide transactions and invalidate many bona fide transactions. See discussion on p. 25 of the Draft of 1924.

2. *Protection only of purchasers and of lien creditors without notice, as against an unfiled mortgage.* The draft follows the Conditional Sales Act in limiting the classes of creditors protected to

creditors who have acquired a specific lien in the particular goods. See full discussion under Section 42.

3. *Protection of the mortgagee as far as filing can reasonably be expected to give notice, and no further*; at least where the risk involved is a risk of the mortgagor's honesty. See, e.g., Sections 26 (3), 27, 58, 45 (3), and discussion thereunder, for instances in which the mortgagee's rights are limited in the interests of innocent outsiders. The mortgagee is given compensating benefits by such provisions as those listed here as points 1, 7, 8, 9, 11 and 12.

4. *Simplification of foreclosure, with elastic options as to method and liberal redemption features*. See Part V. Thus the mortgagee may either give twenty days' notice before taking possession, and so bar redemption (Sec. 63) or hold for ten days after taking possession and then sell (Secs. 65 and 66); or reach a special compromise or agreement with the mortgagor (Sec. 70); or foreclose by suit (Sec. 69). The mortgagor's interest in excess proceeds is everywhere preserved, despite default, unless contracted away *after* the mortgage transaction. (Secs. 70 and 72). Until foreclosure is completed, default may at any time be cured. (Sec. 62). And it is not necessary, to cure default, to tender so much of the principal as has been accelerated. (Sec. 62 (2).) And both foreclosure and redemption are freed from all technicality which it is possible to escape.

5. *Inclusion in the Act of all transactions which in substance are mortgages and under which permanent possession remains in the mortgagor*. Thus the Act applies to bills of sale given as security, and to a sale as security with agreement to resell. See Sections 9, 10, 11, and 13.

6. *Exclusion from the Act of transactions which do not leave possession in the mortgagor and which are in function and substance pledges*. See Section 14, and discussion thereunder.

7. *Putting a mortgage and a trust deed for security on the same footing*. This eliminates needless and useless diversity of rule in many states. See Section 10.

8. *Permitting mortgage on a stock in trade*. This has long been recognized as desirable; but many courts have, none the less, re-

mained hostile to it because of an over-technical view of the "inherent nature" of a mortgage. See Sections 25 and 26.

9. *Regulating a mortgage to cover future advances.* This is a situation often uncovered in terms by the present statutes, so that it is essential for a simple and effective procedure to be laid down. See Sections 27 and 53, and discussion thereunder.

10. *Regulating the question of conflicting rights between mortgagee and lienors acquiring liens arising out of the mortgagor's possession.* See Section 39 and discussion.

11. *Distinguishing, where necessary, between a mortgage given merely as additional security for an old debt and one given for a new advance,* which increases the mortgagor's estate to the extent of the security removed from the estate by the mortgage. This distinction in many cases puts purchase money mortgages, and security for *new* advances, on the preferred footing which such transactions deserve, while mortgages given merely as additional security after the event are less favored—as they should be.

This feature is believed to be one of the most useful points in the draft. It is mortgages for "old value," attempting preference of one favored creditor when a debtor was hard pressed, which have given chattel mortgages much of their bad name. And all fraudulent mortgages resemble "old value" transactions. Many rules limiting the effect of chattel mortgages have been framed with such cases in mind, but framed so broadly as to include in their terms the wholly different mortgage for new value, which is an instrument of desirable, current financing. On the other hand, many rules, especially those making a contract to mortgage an "equitable lien" as against creditors, would never have been made except in an effort to do justice when new value had been given in reliance on the contract, yet have been framed in language broad enough to cover "old value" transactions. To make the difference clear, and permit each type of transactions to be governed by the rules invented to fit it alone, is believed to add service and clarity to the law. See Section 1, "old value" and "new value;" and Sections 12; 42 (3); 25 (3); 26 (2); 48 (4).

12. *Regulation of contracts to mortgage and defective mortgages;* a field where the present diversity and uncertainty of rules is extreme. (Sections 12; and 57, 58, 59.)

13. *Provision for the filing record to clear itself automatically six months after maturity of the obligation secured.* (Section 51).

B. FEATURES OF FORM OF THE DRAFT. •

1. So far as possible, the *text of the Act has been broken up* so that each point of policy is found in a separate section or subsection. It has not always been possible to carry this program through, but it is believed that such arrangement facilitates discussion, citation and construction.

2. The sections have further been grouped into Parts. The draftsman is the first to admit that this grouping is not wholly satisfactory. It is believed, however, that it will to some extent facilitate dealing with the draft. The ever present difficulty is, of course, that the same situation occurs in different aspects under two or more parts, however the parts be divided. See, e.g., Sections 27 and 53.

C. THE NOTES ON THE DRAFT.

1. The title of each section contains a reference to the draft of 1924, for purposes of comparison, showing briefly what changes, if any, have been made, and making available the discussion printed with the prior draft. In general, however, the present discussion is made full enough to stand on its own feet.

By reference to the draft of 1924, the case and statutory material printed in the draft of 1923 may be found. It is not here expressly referred to, for reasons given below, under 3.

2. The discussion is either of a whole section, where a single line of policy pervades the section, or, as the case may be, is divided and numbered with reference to particular portions of the text which bear corresponding numbers. These numbers are not always consecutive as they occur in the text; sometimes discussion has seemed easier under the present arrangement. In either event, cross references to other sections of the Act are furnished whenever they throw light on the particular passage.

3. *Legal authority is not cited.* The discussion has practically omitted the customary references to case law and statutes. *It is confined to questions of policy.* A reference to the draft of 1923 will show why this has been done. Both case law and statutes on

chattel mortgages are so varied and multiform as to make a fair presentation of the existing law extend far beyond the scope of a report. Furthermore, such a presentation of the existing law would unavoidably confuse the discussion of policy.

When the Conference has determined upon the policies to be incorporated, a proper set of annotations to the cases and statutes in point will be prepared. Pending that, it may here be said that *unless the contrary is expressly indicated, there is ample warrant in case law or declared statutory policy for every position taken in this draft*. On the other hand, it may be said that there is hardly a position taken in the draft *against* which either cases or statutes cannot be adduced.

In this situation consideration of policy must become determinative, and these considerations are sufficiently complicated in themselves to call for every effort to simplify their discussion. On this point the draftsman has followed the method of last year's draft, because that draft did not come up before the Conference.

Your draftsman desires once again to acknowledge the continued and unselfish labors of the Committee. He would like to repeat his recognition of the invaluable collaboration mentioned in detail above. It is no longer a question of submitting his own product, but of submitting to the group their own joint work.

Respectfully,

K. N. LLEWELLYN

Yale Law School,

June 30, 1925.

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**THIRD DRAFT OF A UNIFORM CHATTEL
MORTGAGE ACT, 1925**

PART I

GENERAL INTERPRETATION

Section 1. Definitions. (1924, Sec. 1, p. 7; with modifications and additions.)

In this Act, unless the context or subject matter otherwise requires:

“*Default*” means the occurrence of any event on which the power of the mortgagee to foreclose accrues, whether such event is the performance or non-performance of any act by any person or the happening of a contingency, and whether such event is constituted a default by the terms of the mortgage or by this Act.

Discussion:

The provision is drawn to leave wide leeway to the parties, according to the circumstances, to define default. The cure for any possible hardship lies in the liberal redemption provisions of Section 62.

“*Discharge*” means and includes both the occurrence of the event which satisfies the mortgage according to its terms, whether such event is the performance of any act or acts by any person or the happening of a contingency, and defeasance of the mortgage by release, compromise or other supervening fact.

“*Due filing*” means filing in the form, and at any place or places, and within the period, required for effectiveness under this Act.

“*Due giving*” of notice means actual personal communication of notice orally or by writing, or actual delivery or tender of a signed writing containing notice to the person to be notified, or deposit in the mails of such a signed writing, in an envelope properly sealed, stamped and registered, addressed to the person to be notified at the address stated in the instrument or, if no address is so stated, at the last known address of such person.

Discussion:

Should provision be made here for a change of address under proper notification to the other party, although an address is given in the mortgage instrument?

This definition of *due giving* is of course applicable, whatever the content of the notice may be.

"Filing district" means the subdivision or subdivisions of the state in which an instrument is required under this Act to be filed.

Discussion:

Here as throughout, no special reference is made to the filing of copies, since that is covered once for all by Section 52 (4).

25 "Goods" means all chattels personal other than things in action and money; and includes emblements, and growing crops or other things attached to or forming a part of land which the mortgagor is entitled to sever. So far as a mortgage on crops to be grown in the future is valid, "goods" includes such crops. Vessels falling within the scope of any law of the United States regulating the mortgage
30 of vessels are excluded.

Discussion:

The reference to crops is to Section 25, especially subsection 4. The exemption of vessels has reference to the Federal Ship Mortgage Act of 1920, the constitutionality of which has not yet been authoritatively determined.

Book accounts. Ordinary financing by assignment of book accounts seems to raise no problems essential to this Act: but where book accounts are assigned by a debtor who is in difficulties, merely to give additional security to one creditor, the possibility of preference without publicity is great. *The Committee requests the authorization of the Conference to include "book accounts of a business" in the Act.* For a striking illustration of the problems involved and the desirability both of protecting such an assignment and of arranging for other creditors to obtain notice thereof, see the facts and decision in *Benedict v. Ratner* (U.S. 1925) 45 Sup. Ct. 566.

Growing crops. It will be observed that this phrase is limited to such crops as the mortgagor is entitled to sever. The qualification "*industrial* growing crops," found in the Conditional Sales Act and in the Sales Act, has been omitted to make room for the financing of perennial crops, such as fruit, which call for so much labor and expense as to stand on the same economic basis as industrial crops in the strict legal sense.

"Instrument" means instrument of mortgage.

Discussion:

The Draft distinguishes throughout between the *transaction* and the *instrument*. See the discussion under Section 9.

35 "*Lien creditor*" means any creditor who has acquired a specific lien on the goods by attachment, levy, or in any way by operation of law or by judicial process, including a distraining landlord, a receiver in equity or bankruptcy, and a trustee in judicial insolvency proceedings.

Discussion:

The policy of limiting the protection of creditors to those diligent enough to secure specific liens follows the Conditional Sales Act. (See Section 42, 45, and 48, below; and especially the discussion under Section 42.) Recent New Jersey decisions on the Conditional Sales Act show the necessity for expressly including the distraining landlord and the receiver in equity.

"Loss" means and includes all or part of one or more than one financial disadvantage, present or future, absolute or contingent, directly or indirectly falling on the mortgagee.

40 "Mortgagee" means the person who is to obtain security or indemnity under the mortgage, and any legal successor in interest of such person.

Discussion:

A deed of trust for security is specially covered by Section 10; and the rights of the trustee are there defined.

45 "Mortgagor" means the person whose interest in the goods is subject to the mortgage, and any legal successor in interest of such person.

Discussion:

It sometimes happens that a single person conveys to one man a mortgagee's interest and to another man a mortgagor's interest in the same transaction. (See Section 23.) To take care of this contingency, the term *mortgagor* is used throughout the Act as indicated in the definition; and the term *person giving the mortgage* is used in all cases involving the formalities of execution or questions of who can mortgage.

"New value" means new advances or loans made, or new credit actually given, or new obligation incurred, or the release or surrender of valid and existing security, in reliance on the security in question.

Discussion:

In certain cases, particularly in determining the rights of a purchaser who claims through a prior mortgage covering after acquired goods, it has seemed necessary to make a distinction between old and new value (See Sections 12, 25 (3), 42 and 48.). It is clear that in many cases there is a strong equity in favor of a creditor who has increased the estate of the mortgagor to the full extent to which he claims security, as distinguished from a creditor who is simply bolstering up an old claim and attempting to get *ex post facto* precedence over other creditors.

50 "*Notice of the mortgage*" means knowledge of such facts as would put a reasonably diligent person on inquiry leading to the discovery that the mortgage existed.

Discussion:

Granted knowledge that a mortgage exists, though its exact terms be unknown, a third party may fairly be held to make further inquiry. A similar policy prevails even in the law of negotiable instruments, where a purchaser in general takes only what his transferor has unless the purchaser is free of notice of *any* defect.

55 "*Obligation*" means and includes all or part of one or more than one duty or liability, whether present or future, absolute or contingent, mature or immature, direct or indirect, and whether resting on the mortgagor, the mortgagee, or on any other person.

Discussion:

Present or future. The language is broad enough to cover the cut-throat "any and all other obligations, whether or not purchased from third parties" clauses of documents drawn by counsel for the most rigorous mortgagee. But as to future advances, there are some limitations on effectiveness against third parties imposed by Section 27.

On the mortgagee. This is to cover the case of a mortgage to secure the mortgagee for becoming an endorser. Cases may occur in which the mortgagor will not assume or will negative any *personal* obligation of indemnity or contribution.

Any other party. This is to cover the so-called "real suretyship" case in general: suppose a mortgage by A to C to secure that B will pay C rent as it falls due under a lease.

"*Obligation secured*" includes any indemnity against loss secured by the mortgage.

60 "*Old value*" means an antecedent or pre-existing obligation or any renewal or extension thereof or forbearance to sue thereon.

Discussion:

See under *new value*.

65 "*Perfect a lien*" means, in the case of a mortgage, to file the same as required by this Act or by the local filing or recording act; in the case of a pledge, to take possession; in the case of any other lien, such acts as are by law requisite to the validity of the lien against third parties.

Discussion:

Where a mortgagee has not filed his instrument, and a subsequent lienor is claiming, the Draft under Section 42 prefers the lienor who first *completes* his job. Some convenient phrase is necessary to describe such completion.

"Person" means and includes, as the case may be, one or more than one individual, trustee or other fiduciary, partnership, corporation, business trust, or other association.

Discussion:

The definition has been slightly enlarged over preceding acts, to cover the case of trusts and associations as business units.

70 "Purchase" includes conditional sale, lease, mortgage, pledge, and the acquisition of any specific lien, legal or equitable, by contractual acts.

Discussion:

The definition has been enlarged over preceding acts to cover directly several situations, such as conditional sale and lease, which are clearly within the intent of prior acts, but which, under an over-technical construction might be held to fall outside their language. The narrow construction given in New Jersey to "lien creditor" seems to warrant caution. Indeed, it is hoped that a clear indication in this and possible subsequent acts of the policy intended may lead to wider interpretation of the earlier acts in doubtful cases.

"Purchaser" means any person taking by purchase and any legal successor in interest of such person.

75 "Value" means any consideration sufficient to support a simple contract. An antecedent or pre-existing claim, whether for money or not, whether contingent or absolute, whether matured or not, and whether against the transferor or against another person, constitutes value where goods are taken either in satisfaction thereof or as security therefor.

Discussion:

See remarks under *purchase*.

Section 2. Act Prospective Only. (1924, Sec. 49, p. 39; unchanged.)

This Act shall not apply to mortgages made prior to the time when it takes effect.

Section 3. Time of Taking Effect. (1924, Sec. 54, p. 39; unchanged.)

This Act shall take effect.

Section 4. Short Title. (1924, Sec. 52, p. 39; unchanged.)

This Act may be cited as Uniform Chattel Mortgage Act.

Section 5. Inconsistent laws Repealed. (1924, Sec. 53, p. 39; with an addition.)

Except so far as they are applicable to mortgages made prior to the time that this Act takes effect, the following acts shall be and hereby are repealed.....; and all acts or parts of acts inconsistent with this Act are hereby repealed.

Section 6. Uniformity of Interpretation. (1924, Sec. 51, p. 39; with an addition.)

This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it; and so as to effectuate its purpose of protection against secret liens.

Section 6a. Singular Includes Plural; Principal Includes Agent. (New)

1. The singular of any noun or pronoun in this Act shall in proper case be construed to include the plural.

2. Any designation of a person in this Act, for any purpose, shall be construed to include his agent in that behalf.

Section 7. Cases Not Provided For. (1924, Sec. 50, p. 39; simplified.)

In any case not provided for in this Act the rules of law and equity, including the law merchant, and of statute, shall continue to apply to mortgages.

Discussion:

Omission of mention of individual branches of law, such as bankruptcy, mistake, fraud, incapacity, duress, estoppel, etc. It is felt that no court will fail to apply to situations not directly covered by the Act such exceptions as are made necessary by these pervading rules. On the other hand, to list them all is hopeless. It is therefore recommended that no risks be run of limiting the saving clause by including only a part of what it is desired to include.

In the same way, it is hardly conceivable that statutes requiring special notice to creditors of mortgage of a retailer's stock in bulk, or the concurrence of a wife in mortgaging homestead, or household furniture, will be deemed affected by this Act. And the same is true of the growing body of law regulating the transfer of automobiles.

Under Section 21, a change in the law of capacity is effected, since a voidable title not avoided before the mortgage is given, is made to pass perfect rights to the mortgagee without notice. That change follows the Sales Act.

The only saving clauses in the body of the Act are Sections 19 (2) and 25 (5). Everything else is left to the present Section.

Section 8. Rights May be Enforced by Action. (New; from Sales Act, sec. 72.)

Where any right, duty, or power is declared by the Act, it may be enforced by appropriate action.

PART II

NATURE, FORM AND SUBJECT MATTER OF MORTGAGE

What Transactions are Mortgages

Section 9. What Constitutes Mortgage. (1924, Sec. 1, p. 7; one part, recast.)

In this Act, unless the context or subject matter otherwise requires (i),

1. "*Mortgage*" means any transaction by which a legal or equitable property interest (ii) in goods is created in the mortgagee (iii) in order to secure the performance of any obligation (iv) or to indemnify the mortgagee against any obligation or loss (v), which interest is to terminate on satisfaction.

2. "*Mortgage*" includes a sale of goods for security, with an agreement by the vendee to resell on discharge of the obligation secured or an option in the vendor to repurchase on such discharge (vi); and includes any purchase money mortgage to a seller or to a person who provides payment or security for all or any part of the purchase price of goods (vii).

Discussion:

(i) *Mortgage* is commonly used in three distinct meanings. It may mean

(a) the transaction creating a mortgage, or

(b) the resulting legal and equitable rights and duties which continue until satisfaction or completed foreclosure, or

(c) the document embodying the transaction.

In this Act, the document is referred to consistently as *instrument*. But no consistent attempt has been made to distinguish the first two meanings of the term. The draftsman believes such an attempt to be theoretically desirable, but to lead to difficulties in phrasing which might well give offense; and desires the advice of the Conference on whether to attempt such a distinction.

(ii) *Lien or title theory.* The Act nowhere states whether it is drawn upon the lien or the title theory of mortgage. The Committee believes that the full purpose of the Act can be accomplished by defining clearly and fully the rights and duties of all parties; and that to avoid adherence to one or the other theory *by name* may well remove one source of objection to the passage of the act.

(iii) For the situation under a deed of trust see Section 10.

(iv) The language, as defined in Section I, *obligation*, covers a mortgage made by A to C to secure an obligation owed by B to C—say payment of rent.

(v) The language, under the same definition and that of *loss*, covers the giving of a mortgage to secure performance of some duty which cannot well be financially admeasured, such as an endorser's obligation or the performance of a contract, or to secure the mortgagee for *becoming* an endorser; and covers also future and contingent obligations.

(vi) Sales *for security* should certainly be included. But a sale with agreement to resell *not made for security* is not included.

(vii) *Purchase money mortgages* are expressly included, to cover the possibility that a bill of sale and mortgage back, consolidated in one instrument, might be held not to *create* an interest in the *mortgagee*. Whereas to define mortgage with the words *create or retain* is to run foul of the Conditional Sales Act.

General. The definition is limited expressly by Section 14, when immediate right to possession in the mortgagee is stipulated for.

It is believed that it is sufficient to cover the Louisiana "privilege" in crops, of one advancing money to make the crop.

It is not believed to include a share-cropping contract by which the interest of the tenant is created, under *reservation* of rights in the landlord; but on that point the Committee desire advice from the Commissioners of the States in which such contracts are chiefly in use.

Section 10. Mortgage to Trustee Enforceable by Him. (New)

Where a mortgage is made by way of deed of trust to a third person, all rights and powers of the mortgagee under this Act shall, subject to the trust, be vested in the trustee.

Discussion:

This section abrogates the differences which have grown up in some states, particularly with reference to foreclosure, between a mortgage and a deed of trust. Certainly uniformity within a given State is desirable; and the foreclosure provided under Part V appears amply to protect both parties.

By throwing the whole matter into one section, it is made unnecessary to constantly refer to the case of the deed of trust.

Section 11. Absolute Bill of Sale Intended as Mortgage. (Part of 1924, Sec. 26, p. 25.)

1. An instrument purporting on its face to effect an absolute transfer of goods may be proved to have been intended as a mortgage and when so proved shall be given such effect (i).

5 2. The filing of such an instrument as a mortgage, by the mortgagee, shall be conclusive against him (ii).

Discussion:

(i) This expresses the existing law and seems to be a necessary protection to the mortgagor. Any stricter rule would invite a sort of informal strict foreclosure at the will of unscrupulous mortgagees.

(ii) The practice of giving an absolute bill of sale intended as a mortgage is too ingrained and widespread to be wisely attacked.

Furthermore, it is submitted that, by offering validity against creditors through filing, some headway may be made in inducing the mortgagee to file, and thereby remove the necessity of a court relying on oral testimony to determine the true character of the instrument. And where cases can conveniently be removed from the uncertainties of oral testimony, without danger of counterbalancing injustice, there seems to be little doubt that they should be removed. For the method of filing, see Section 52, especially subsection 3.

Third parties misled by form of document. Such parties are protected. See Sections 16 and 58.

Section 12. Contract to Mortgage. (New)

1. A contract to give a mortgage shall, so far as new value has been given in reliance thereon (ii), be specifically enforceable (i), and operate as a mortgage; and if in writing and signed by the person giving the mortgage, shall be specifically enforceable between the parties, although not given for new value (iii).

2. An instrument evidencing a contract to mortgage shall be admissible to filing in the same manner as an instrument of mortgage, but filing shall have validity only to the extent provided in this section (iv).

10 3. Subject to Sections 57 and 58, a bona fide attempt to give a mortgage shall be effective as a contract to mortgage (v).

Discussion:

Contracts to mortgage are fairly within the scope of the Act, if only because so many courts describe them as "equitable mortgages."

(i) *The draftsman recommends a correlative provision* that a contract to lend against a mortgage shall be specifically enforceable. Without such enforcement, damages are practically never adequate. See 27 *Yale Law Journal*, 1083.

Whether or not such recommendation be followed, the present provision represents the existing law, from which there is no occasion to depart, as far as any uniform rule can represent divergent cases.

Specific performance. This provision is to take care of the mortgagee for new value whose mortgagor will not give him a document pursuant to an oral contract, and see (v), *infra*.

(ii) This provision, like those following, carries out the general policy of the Draft that an old creditor, seeking *ex post facto* to better his position, must perfect his lien before his rights accrue. Whereas it gives reasonable protection to a creditor making new advances under express agreement for security.

(iii) Some limitation on oral contracts seems called for by the general policy of the Statute of Frauds. Under this clause a prospective mortgagee who has paid over the new value agreed, is protected. The possibility, which would be consistent with the Sales Act, of allowing an oral agreement to give a mortgage for *old value*, where the amount is less than 500, or 100, or 50 dollars, as the particular statute may require, is believed on the whole unnecessary, and undesirable. It is hard to think of a field in which mistaken or fraudulent testimony is more likely to appear than where a disappointed creditor is calling for further security. The position of the Act is that he does not suffer to any vital extent unless he has parted with new value in reliance on the mortgagor's oral promise.

(iv) This provides means for the creditor making new advances to secure himself against third parties. It does not require the filing officer to distinguish between mortgages and contracts. Perhaps the mortgagee should be required to file a statement that the value is "new."

(v) This section attempts a compromise between those cases which wholly invalidate a mortgage for formal defects, and the necessity of some requisites as to form of instrument and place of filing. In substance the subsection confirms Sections 57 and 58 on the effect of defective filing, but by incorporating subsection 1, it gives the mortgagee the right to specifically compel such lacks, as e.g., the mortgagor's signature, to be supplied. Clearly subsection 2 covers only contracts to mortgage which are regular *as* contracts; whereas subsection 3 covers attempts to mortgage, and makes them operate as contracts between the parties and purchasers and creditors having notice—if new value has been given by the mortgagee.

Section 13. Certain Security Transactions Deemed Chattel Mortgages. (Temporarily omitted in 1924 as Sec. 6, p. 10; Draft of 1923, Sec. 13, p. 28; slightly recast.)

5 When all or part of the purchase price or shipping expense of goods is advanced to or on behalf of the buyer by any person, not being the seller or the seller's agent, and such person as security for reimbursement receives and reserves a security title to the goods although they pass into the possession of the buyer, such reservation of security-title, whether or not by instrument in the form of a conditional sale contract or of a trust or bailee receipt, shall be deemed a mortgage, and the provisions of this Act shall apply thereto.

Discussion:

This section will be abrogated by any later passing of the proposed Trust Receipts Act, and should be omitted in states where the Trust Receipts Act may already have been passed. But it is desirable of inclusion in the absence of that Act. The draftsman is informed that in Ohio, where trust receipts up to this year required filing "as chattel mortgages," the filing of the trust receipt instrument did *not* affect the credit standing of the debtor as would the filing of an instrument in the accustomed form of a chattel mortgage. And no business difficulty of serious importance has developed, in regard to filing, *as long as all formalities aside from the original signing can be complied with by the mortgagee.*

This section is directed to the situation common in import transactions and becoming increasingly more common in domestic trade, in which the purchase price of goods is paid, not by the buyer, but by a bank or finance corporation for the buyer, and in which such bank or finance corporation takes title from the seller against payment of the price, and seeks to retain such title although the goods are released to the true buyer. The title is always retained merely as security for the payment of a debt, and the goods pass into the possession of an apparent owner. The form of the document by which title is retained varies, being sometimes a conditional sales contract, sometimes a trust receipt, and sometimes in other forms not yet legally classified. In a majority of the states which have passed on the point, a trust receipt is held valid as against creditors, without filing. Such a ruling, where the goods enter into the legal possession of the buyer, is contrary to the policy of the Conditional Sales Act and of this Act. The transaction is here placed under *mortgage*, regardless of its form, (1) because it is a financing and not a commercial operation; (2) because conditional sales do not everywhere require filing.

The only two difficulties in the way of requiring filing which have been suggested in the course of a somewhat careful investigation are

- (a) possible undesirable reflection on the credit of the buyer in possession, and
- (b) the possibility of undue expense in handling the transaction.

These are discussed in the paragraph above.

Adequate provision is made in Section 26, respecting power of sale in the mortgagor, to otherwise meet the needs of the situation involved in this section.

Third parties misled by form of document. Such parties are protected. See Sections 16 and 58.

Section 14. Possession in Mortgagee before Default. (1924, Sec. 5, p. 10; wholly recast, with additions.)

1. No provision of a mortgage shall be valid which gives the mortgagee right to possession before default (i).

2. (a) A transaction by which the mortgagee is given such right and which except for this section would be a mortgage, shall have the effect in law of a pledge or contract to pledge, according as such possession has or has not been taken thereunder (ii).

(b) But until possession is so taken, the instrument evidencing such transaction may be filed as a mortgage and with like effect; and such filing shall waive all right to possession before default (iii).

Discussion:

(i) Under the theory of the Act, possession in the mortgagor, before default, is of the essence of a mortgage. A so-called mortgage which does not assure the mortgagor such possession prevents him from that use of and possible profit in the goods which is very commonly the means of retiring the debt. If a pledge is intended, the transaction should be treated as a pledge.

(ii) This change appears, on the surface, radical. The Committee believe, however, that it is by no means as radical as it appears, and that it is desirable.

(a) *Desirable.* The Committee believes that there is no purpose served by a mortgage of chattels with immediate possession taken by the mortgagee, which is not served equally by a pledge. If that be so, only confusion results from using the concept "mortgage" in connection with such a transaction. They believe, further, that under the laws of all states now requiring "actual and immediate change of possession," the rights of a mortgagee under such a mortgage are often illusory. If he delays, e.g., three or four days in taking possession, his possession when taken is of no value as against creditors. This is unfair to the mortgagee; and the Act, by granting to the mortgagee the option of filing such a "mortgage," gives him in all such states new and needful protection.

(b) *Not radical.* When the actual rights and powers of the pledgee in possession and of a mortgagee in possession are compared, it is found that they differ in very few respects. In neither case can the

creditor, without express provision, use the goods or enjoy the profits for his own account; in both cases he is under a duty not to sell until default, and under a duty to take reasonable action to preserve the goods; his rights against tortious interference of third parties appear to be identical; his right to retain possession until default is the same in both cases; and, on the lien theory of mortgages, it is questionable whether he has any more power than has a pledgee, to defeat the mortgagor's rights by a transfer to third parties. So far as a mortgagee at common law would be entitled to strict foreclosure, that difference disappears under this Act. It is therefore believed that no important change is effected, and much confusion is avoided, by flatly and expressly putting such a mortgagee in the position of a pledgee. And so far as, by virtue of an instrument of outright conveyance third parties may be misled, Sections 16 and 58 give them full protection.

(iii) By exercising the option herein provided, the mortgagee constitutes the transaction a mortgage, in all respects, within the meaning of the Act.

Form and Interpretation of Mortgage

Section 15. Formal Requisites of Mortgage. (1924, Sec. 4, p. 10; recast with two added subsections. For further discussion of the problems see 1924, pp. 24 and 25.)

1. Save as provided by Section 12, the creation or transfer of any interest in goods, to be valid as a mortgage, must be by instrument in writing (i), signed and delivered by the person creating or transferring such interest.

5 2. As between the parties, the description of the goods in the instrument shall be sufficient as to all goods reasonably indicated thereby (ii).

10 3. Where by law a mortgage requires, as a condition to validity, the consent of some person other than the person giving the mortgage, such consent shall in all cases be sufficiently evidenced by signature to or signed endorsement on the instrument (iii).

Discussion:

Formal requirements in general. The Draft consistently adopts the policy that, *whereas no formal requirements will suffice to prevent fraud, yet formal requirements not only burden and inconvenience honest business, but repeatedly have worked severe hardship on parties acting in good faith and at times even under legal advice.*

Particular formalities not required by the Act.

(1) Notably is the above true in regard to a requirement that "the consideration must be stated in the mortgage," which has led to a great

deal of litigation, and to the invalidating of many mortgages—not because any party was misled by the tenor of the instrument, but because of a wholly innocent but inaccurate or incomplete description of the consideration. It is believed that Section 58 is sufficient to take care of any misleading, without penalizing innocent mistakes or omissions.

Another requirement very commonly found is an affidavit by mortgagor or mortgagee, or both.

(2) *Affidavit by mortgagor.* There is a little evidence that requiring an affidavit of good faith from the mortgagor deters some mortgagors from attempted transfers in fraud of creditors. But the Committee have, as yet, no evidence that prosecutions for perjury occur as a result of such affidavits. And more important is the fact that clauses requiring the affidavit have been very strictly construed, so as to invalidate mortgages for the purest of formal defects, and that the accidental failure to secure the affidavit at the time of original execution may fatally slow up the filing.

(3) *Affidavit by mortgagee.* There is perhaps more reason to believe that a mortgagee will refuse to make a false affidavit; and it is true that the mortgagee is commonly in a position to fill this requirement without great delay. As against this is the fact that many mortgages are arranged by agents who greatly dislike the making of affidavits. The further objection also applies, as to the invalidation of mortgage instruments because of accidental formal defects in the affidavit. And the objection, in general, against burdening a hundred honest transactions in an attempt—none too hopeful of success—to avoid one fraudulent transaction, is applicable in full force.

(4) *Affidavits by any party.*

(a) So far as the affidavit is intended to make possible the prosecution for perjury, it is suggested that Section 60 covers the same ground quite as well, and with no burden at all on legitimate transactions.

(b) If it be desirable to call the attention of mortgagor and mortgagee to the existence of Section 60, this could be done by requiring, as a part of the mortgage, some such language as the following: "*I understand that the fraudulent giving of a mortgage is criminal*" or any equivalent words. If such requirement be made, it should be incorporated in this section. The Committee desires the advice of the Conference as to its incorporation.

(5) *Acknowledgment and statement of residence* are by Section 17 made optional, in order to avoid invalidity in case they are accidentally omitted; but are given due effect if incorporated, so that any mortgagee may secure the protection they afford if he desires. No reason appears for invalidating the mortgage in case he overlooks them. *A chattel mortgage is not, like a mortgage of realty, intended as a permanent record.*

(6) *Attestation* is likewise not required, for the reasons indicated above. If the mortgagee desires attestation, nothing prevents.

(7) *Statement that mortgagor has received a copy*, as required by 1924, Section 25 and the alternate Section A, p 24. This has been omitted on the reasoning given above. The record is always open to consultation, in case the mortgagor is in doubt as to terms, and the record contains a *certified copy*.

(8) So also, in the filing provisions, only the simplest formal requirements are left open to the filing officer's supervision; the policy is, to let any instrument go into the files which the mortgagee thinks worth filing. If it has no validity, no one suffers but the man who pays the fees. See Section 52.

Comments on text.

(i) *Oral mortgage.* Section 12(1) limits this section, pro tanto. Desirable as it is to keep the transaction in writing, it seems an undue hardship to refuse enforcement to an oral agreement to mortgage, *where new value has been given* in reliance on it. Compare the policy of the Statute of Frauds validating a contract for sale where part payment has been made.

(ii) The attempt is made, by this section coupled with Section 58, to distinguish between the effect of a description in the light of other facts known to mortgagor and mortgagee on the one hand, and the effect of a description as to a third party without such peculiar knowledge, on the other.

(iii) Subsection 3 is designed to continue the policy of statutes requiring mortgages of household goods, homestead, etc., to be with the consent of a wife, and similar statutes. But the section is designed, in view of the general policy of the Act in favor of simplicity of form, to do away with any such formality as acknowledgment by the wife as being a necessary means of evidencing such consent.

Section 16. Reliance on Form of Instrument. (1924, Sec. 26, p.25; one portion, made general.)

The form of the instrument shall be conclusive upon both mortgagor and mortgagee in favor of any purchaser for value from either or any lien creditor of either who has become such in reliance on such form.

Discussion:

To estop the parties to the instrument in favor of any person relying on the form of the instrument seems necessary, and obvious good sense. Particularly is this so in regard to absolute bills of sale intended as mortgages, etc.

Section 17. Acknowledgment, and Statement of Residence or Maturity. (Largely new; in part a modification of 1924, Sec. 25 and Sec. A, pp. 23 and 24.)

1. An acknowledgment of the instrument or any supplementary document by the person executing the same shall be prima facie evidence of due execution.

5 2. The statement in the instrument of the residence of either mortgagor or mortgagee shall for the purposes of this Act be conclusive against the party whose residence is so stated, in favor of other parties to the instrument and of any person relying thereon with reference to the mortgage or the goods.

10 3. The obligation secured shall prima facie be deemed due on demand unless the instrument indicates the contrary.

Discussion:

See note (5) under Section 15; and see Section 52 for the formal requisites of filing.

False statement of residence. The case law is definitely in favor of casting on the mortgagee the risk of ascertaining the mortgagor's residence. The view of the Draft that honesty of the debtor is a risk to be carried by the creditor *wherever no convenient means of protection can be found*, is in full accord. But under the double filing requirements of the Draft the mortgagee receives some measure of protection, since filing is in any event required where the goods are located, and creditors and purchasers may well consult the records there.

Obligation due on demand. This has reference especially to duration of filing. Section 51.

Section 18. Date of Mortgage. (New)

1. The true date of a mortgage shall be the date of delivery of the instrument; but the mortgage shall be presumed prima facie to have been executed on the date of the instrument.

5 2. Antedating or postdating, unless with illegal or fraudulent purpose, shall not invalidate a mortgage.

Discussion:

The section expresses the existing law.

Section 18a. Single Mortgage Covering Realty and Goods.

(This represents a consolidation of the original Section 50 and 71 of the present draft. See discussion.)

1. The inclusion in a mortgage of realty of goods used in conjunction with the realty shall unless otherwise stipulated empower the mortgagee to foreclose the whole as a mortgage of realty.

2. But no recording or registering of a mortgage as a mortgage
5 of realty shall be sufficient as to goods covered thereby which are
not subject to Section 48 of this Act.

Discussion:

The sources of subsection 1 will be found in the title of Section 71. Both subsections represent obviously desirable rules.

After the present draft and commentary had proceeded so far as to make renumbering impractical, it was decided to consolidate the two sections on mortgage of realty and chattels, and arrange the combination under Part II instead of under the two subject heads.

General Validity and Subject Matter of Mortgage

Section 19. General Validity of Mortgage. (Omitted by error from Draft of 1924; Sec. 4, Draft of 1923.)

1. Save as otherwise provided by this Act, a mortgage, and any lawful (i) obligation or condition imposed in or in connection with the instrument shall be valid and effective according to the terms thereof (ii);
- 5 2. But this section shall not be construed, of itself, to give validity as against creditors to a mortgage not made for value (iii).

Discussion:

(i) The word *lawful* is meant to avoid conflict with usury laws and similar provisions. It leaves almost unlimited scope to the parties to regulate the transaction as they wish, save for such Sections as 14 and 20.

(ii) The words *in connection with* are intended to save conditions imposed on delivery, and any oral understanding that an absolute bill of sale is intended as a mortgage, and any mistake such as would found a reformation.

(iii) This saving clause is deemed necessary to prevent giving the Act too wide a scope, since the Act vitally changes the rules on one class of conveyances which have been deemed conclusively or presumptively in fraud of creditors.

Otherwise provided refers to the whole set of sections on necessity and manner of filing, and to such sections as that declaring what interest shall pass under the mortgage (Section 22), and other sections on special subjects such as those immediately following.

General exceptions. Cases *not falling at all within the scope of this Act*, such as those involving duress, mistake, etc., in the giving of a mortgage, are believed unaffected by this provision. See note to Section 7.

Section 20. Waiver by Mortgagor before Default Inoperative. (1924, Sec. 47, p. 38; recast.)

No act or agreement of the mortgagor before or in connection with giving the mortgage, and no act done pursuant to any such agreement, shall abrogate any of the provisions of this Act regarding foreclosure or the curing of default.

Discussion:

This is the long standing rule against clogging equities of redemption. The provisions are found in Part V. Compare Conditional Sales Act, sec. 26.

Section 21. Who May Mortgage. (New; from Sales Act, secs. 24 and 25.)

5 Whenever the person giving the mortgage shall be so situated with respect to the goods that he has power to sell them free of the title or equities of third parties, the mortgage shall similarly operate to create in the mortgagee an interest superior to that of such third parties, if the mortgagee occupies the same position which a vendee must occupy to acquire such superior interest.

Discussion:

This applies to mortgages the usual rules of agency and estoppel, together with any factors' acts or similar provisions which may be in force in any state; and, wherever the Sales Act is law, the rule of the Sales Act making a sale by one having a voidable title, or by a vendor still in possession of goods, valid in favor of a bona fide purchaser for value. But where—as under Section 26 (2) (a)—the sale must be in due course of business, this section would not operate; a mortgagee is not in the position of a purchaser in due course of merchandising.

The section is believed to be so drawn that subsequent changes in the law of any State enlarging a person's power to sell will simultaneously enlarge his power to mortgage *under like conditions*.

Section 22. What Interest is Conveyed by Mortgage. (1924, Secs. 9 and 10, p. 12.)

5 A mortgage shall encumber the full interest in the goods of the person giving the mortgage and any subsequently acquired interest, including increase (i), and additions by accession or confusion; and shall so operate, although expressed to cover only a contingent interest (ii).

Discussion:

(i) If the Conference can suggest any means of covering wool on a sheep's back, or after shearing and before removal from the premises,

without covering the milk of cows, etc., the Committee would be appreciative.

(ii) The case particularly in mind in this clause is a mortgage of a conditional buyer's interest, but the language is broad enough to cover any contingent interest.

Section 23. Creation of Divided Interests. (New)

An owner of goods may in one transaction create a mortgagor's interest in one person and a mortgagee's interest in another.

Discussion:

This section is related to Section 13 but is wider in its extent, and is intended to facilitate recognition of a common business practice, especially the case of transfer to a vendee and simultaneously to another person advancing the price on behalf of the vendee. Compare, for other developments of the same practice, Williston, *Sales* (2nd ed.) sec. 286. Much confusion has arisen in the cases from attempting to trace "the" title, when a transfer is made with intent to give a divided ownership to two different persons. In part, that confusion can be avoided by expressly incorporating in the Act the view of the more clear-sighted judges.

Section 24. Mortgage of Undivided Share. (New; from Sales Act, sec. 6.)

There may be a mortgage of an undivided interest in goods, or of an undivided share in a specific mass of fungible goods.

Discussion:

Since the Sales Act covers only *sales* of undivided interests, or contracts to sell, and since mortgages are not uncommonly given on "two bales of cotton to be grown on such and such land," it seems necessary to make this provision express. Until severance and specification, such a mortgage would, under Section 22, encumber the whole of the goods, with a two bale limit.

Section 25. After Acquired Goods. (1924, Sec. 8, p. 11; slightly rephrased, with an addition.)

1. A mortgage shall be valid between the parties (i), which covers

- (a) goods to be raised or grown, or
- (b) the increase of animals, or

5 (c) goods under contemplation of immediate acquisition, or
(d) which covers, in conjunction with a present mortgage of described goods, further goods of like description to be acquired within a period not to exceed five years (ii).

2. Such a mortgage shall be valid against creditors and purchasers of the mortgagor if before acquisition of the goods the instrument has been duly filed (iii); but if such instrument be not filed till after acquisition, such mortgage shall be valid only against creditors and purchasers of the mortgagor, with or without notice, who become such after due filing (iv).

3. In determining question of preference to creditors, the transfer under such a mortgage shall be deemed to have occurred (v):

(a) at the time of due filing, although such filing be before acquisition, so far as the mortgage is given to secure new value;

(b) at the time of acquisition of the goods, or of due filing, if subsequent to such acquisition, so far as the mortgage is given to secure old value;

provided, however, that the mortgagee's interest in future crops shall in no case be deemed to vest before the mortgagor acquires an interest in the land on which such crops are to be grown (vi.)

4. Where advances are intended to be, and are, used to defray the purchase price or other charges incident to the acquisition by the mortgagor of the goods mortgaged, the mortgage may on such acquisition be treated by the mortgagee as a mortgage of present goods made at the time of acquisition (vii).

5. This section shall not be construed to abrogate any statute which invalidates a mortgage of future crops or other products of labor, enterprise or land to accrue after the expiration of a limited period (viii).

Discussion:

The practice of giving a mortgage on after acquired goods is so common and so built into the commercial and financial structure of the country that it seems unwise to adopt the view that a mortgage on after acquired goods is merely a contract to mortgage. Particularly is this the case in regard to the common situation in agriculture, in which it is only the money advanced by the mortgagee which makes possible the coming into existence of crops, or the carrying of stock-raising through to a financial return.

(i) Validity between the parties is of course of no moment, *unless* the goods come into existence. If they do come into existence, then, as between parties, this provision has about the same effect as would a provision that the transaction should be construed as a contract to mortgage, since such a contract is specifically enforceable under Section 12 (1).

But the rule here laid down is consistent with that in *Thompson Yards, Inc. v. Richardson* (N. D. 1924) 199 N. W. 863, holding that a mortgage of future crops survives bankruptcy of the mortgagor intervening before the crops are planted. That policy is believed sound.

(ii) *In conjunction with*, etc. This limitation is directed primarily to stocks in trade, and is intended to prevent the hypothecation of *all* a man's future assets, a thing neither desirable nor required by business conditions. The words of *like description* limit the possible transaction to the usual and necessary one of goods replacing or extending the business assets of the mortgagor.

Book accounts. If book accounts of a business are to fall within the Act, they should here be dealt with.

(iii) *Filing before acquisition.* This provision provides ample protection for third parties. Creditors thus have the means of knowing of the mortgage *before* they let their goods come under it. And in the common case of the mortgaged stock in trade, *purchasers* will take free of the mortgage, despite filing, under Section 26 (1).

(iv) This provision operates as, and is intended as, a penalty on failure to file such a mortgage. It is felt that a creditor who does not bargain for security takes his chances on *subsequent* mortgages, and even on existing mortgages of present goods; but that he does not expect, and should not be subject to, an existing, unfiled mortgage waiting to gobble the very goods he puts into his debtor's stock.

(v) This section seems necessary in order to settle the conflict of authority on the point, a conflict on which the federal courts seem prepared to follow the local rule.

(vi) This section, together with Section 22, applies the rule of estoppel by deed to mortgages made by an intending lessee of crops to be grown after he effects his lease. Only a mistaken logic tells against the rule. See note (viii) *infra*. In favor of it is the desirability of permitting the well established practice of financing in advance, and of protecting mortgagees in good faith.

(vii) This presents a necessary and reasonable qualification of the rule requiring filing before acquisition. That rule is directed at cases of a different sort, chiefly those involving purchases *on credit* by the mortgagor. The "with or without notice" clause of subsection 2 should not be applied to the case envisaged by subsection 4, and is not. But filing before acquisition is permissible.

(viii) The local caselaw and legislation limiting validity of a mortgage on future crops is exceedingly diverse. The restrictions fall into two classes:

(1) those which, without any discoverable background of *policy*, attempt to work out the purely logical consequences of the idea that a man cannot grant that which he hath not. Here fall requirements that a man must have an interest in the land, to make the mortgage good; that the crop must already be sown; etc.

(2) those which, with a view to preventing a farmer from mortgaging his whole future, limit the period over which future crops may be mortgaged—not to exceed two years, or one year, or the current year, or the current season. The second class must be regarded as adaptations of local policy to the local conditions of agriculture and agricultural finance, and it is believed unwise to attempt to disturb them.

But the first class of restrictions seem to have no policy foundation, if any mortgage of after acquired goods is to be valid at all; and the diversity of the rules is unfortunate. They are therefore left out of the saving clause, which is limited to the *time period*.

Furthermore, under the provisions of Section 22, applying to mortgages the principle of estoppel by deed, it seems fair to make a crop mortgage good, on acquisition of the land by the mortgagor—other requisites of validity being present—whether or not the mortgagor had such interest at the time of making the mortgage. No one is hurt thereby, since due filing is in any event required as against creditors and purchasers. And many bona fide mortgages will thereby be saved from invalidity. See, however, the proviso to subsection 3, which prevents preferences being given in such fashion, to the disadvantage of other creditors.

Under Section 24, the not uncommon mortgage of “six bales to be grown” out of a probable greater number, is validated. But, of course, subject to Sections 16 and 58, as to adequate description of the goods.

Crops removed from the land. Under Section 58 the question is discussed as to whether bona fide purchasers of mortgaged crops should not be protected, if the crops have been so removed from the land that the mortgage description no longer puts a reasonable man on inquiry. The draftsman recommends such protection; the present language of Sections 16 and 58 will have such effect.

Section 26. Power of Sale in Mortgagor. (1924, Sec. 7, p. 10; rephrased and somewhat modified.)

1. If the mortgagee at any time expressly or impliedly consents to the sale or other disposition by the mortgagor of all or part of the goods, the purchaser under such disposition shall, without regard to notice of the mortgage or due filing, hold free of the mortgage (i).

2. (a) The mortgagee's consent to the placing of the goods in the mortgagor's stock in trade or sales or exhibition room shall have like effect as consent to sell, in favor of any purchaser in the ordinary course of the mortgagor's business (ii), not however including a purchaser by way of mortgage, pledge or sale in bulk or in payment of antecedent debts (iii);

(b) nor shall any restriction on such sale, between mortgagor and mortgagee, affect a purchaser who has no actual notice of such restriction (iii).

15 3. Unless the contrary is expressly provided, the mortgagor shall be under no duty to account for the proceeds of any disposition within this section, nor to use such proceeds to replace the goods (iv).

20 4. No mortgage shall be invalid as between the parties or as against creditors by reason of such consent of the mortgagee, or of the absence of duty to account for or replace the goods disposed of pursuant thereto (v).

Discussion:

The case particularly in mind—although the section is not limited thereto—is a mortgage on a stock in trade. The Committee are of the opinion that only an obsolete and over-technical view of the supposed “inherent nature” of a mortgage on the part of many courts has kept the stock in trade from being what it deserves to be—a realizable borrowing asset of a merchant. (See 34 *Yale Law Journal*, 175.) In accord is Conditional Sales Act, sec. 9.

(i) This section expresses the present universal rule, and is obviously necessary in favor of purchasers whose rights are derived under the consent of the mortgagee, and who take title quite as much from the mortgagee as from the mortgagor.

(ii) This applies to a particular, common and much litigated situation. The cases have almost universally been in full accord with this clause, which expresses the ordinary doctrine of apparent agency, as applied to the facts.

(iii) These provisions present a necessary qualification to (ii), in view of the circumstances. Only a sale in the course of business is intended by the mortgagee, or can fairly be gathered from the appearances; and creditors are given warning of the facts by the filing of the instrument. But ordinary purchasers have no occasion to examine the chattel mortgage files, where the mortgagee has consented to exhibition of the goods as if for sale.

(iv) This rule of construction expresses what is believed to be almost universal business practice. Where an accounting is ordinarily expected, the mortgagee need only so state,

(v) This subsection adopts the more modern cases and the sound commercial policy, as indicated above.

Section 27. Future Advances. (1924, Sec. 11, p. 13; slightly re-phrased, with an addition.)

1. Any provision in a mortgage which secures advances to be made or obligation to be incurred in the future, or secures a series of present or future advances or obligations not at any one time to exceed a designated amount (i), shall have effect after due filing of the instrument, but only to the extent that such advances are actually made or such obligation actually incurred, and as and when each statement of advances made or obligation incurred is filed as provided in Section 53. (ii).

2. Where the mortgagee is under contract to make future advances, and such fact appears by the instrument as filed, any lien creditor of the mortgagor acquiring his lien on the goods after due filing is postponed to the mortgagee, but shall by virtue of his lien be entitled to receive satisfaction thereof out of the sums agreed to be advanced, as they become payable to the mortgagor under such contract (iii).

Discussion:

(i) Special provision is made by many states for such a mortgage. The extreme uncertainty existing in other states as to how far, if at all, such a mortgage is valid, makes special provision desirable. The language is applicable to the common "any or all other indebtedness" clause, to underwriting contracts, and to security for a revolving indebtedness in a more or less fixed amount, new loans being made as old are paid off.

(ii) This provision gives notice to all third parties not only of the fact of the mortgage, but of its extent. Under Section 53 a statement of the advances as made, must be filed in order to assure such validity; this brings the record up to date. No objection to this has been made by persons interested in this method of doing business.

(iii) It has been urged by persons interested in series of investment issues, secured in whole or in part by a chattel mortgage, that it is unfortunate to permit an attaching creditor to imperil an underwriting already agreed upon. The argument is that the underwriting contract is commonly such as to mature the outstanding bonds if the security is impaired; and that any attaching creditor will be sufficiently protected if he receives *not the goods, but the proceeds of the underwriting* whenever such proceeds would otherwise accrue to the mortgagor. Subsection 2 has been prepared to present this point of view to the Conference.

Revolving indebtedness. It may be that special provision is necessary, in the case of a mortgage to secure a revolving debt, whereby a filing at the time the maximum of advances is made will continue valid as to substituted indebtedness, the agreement being made to appear on the record. Very probably this will prove necessary, if *book accounts* are to be included in the Act. And if a revolving "line of credit" has been contracted for, the record would adequately state the facts.

PART III

RIGHTS AND POWERS OF MORTGAGOR AND MORTGAGEE

Rights of Mortgagor

Section 28. Mortgagor Entitled to Possession. (1924, Sec. 2, p. 9; rephrased with an addition.)

The mortgagor is entitled to possession and use of the goods subject to the terms of the mortgage and the further provisions of this Act.

Discussion:

This expresses the existing law and carries out the policy, laid down in Section 14, that the Act extends only to transactions under which the mortgagor is entitled to possession.

For the *mortgagor's power to surrender* the goods, by agreement with the mortgagee, in satisfaction of the obligation secured, see Section 70.

Effect of default. See Section 61 and following sections.

What constitutes default. See the particular sections, and Section 19 (1).

Effect of satisfaction. Section 9 states expressly that on satisfaction the mortgagee's interest wholly terminates.

Destruction by use. Section 30 (1) makes clear that any use is permitted which is reasonable.

Section 29. Restrictions on Removal or Sale by Mortgagor. (1924, Sec. 12, p. 13; slightly altered, with an addition.)

1. Unless the instrument otherwise provides, the mortgagor may at any time remove the goods from any premises or filing district, or sell (i), mortgage (ii), or otherwise dispose of his interest in the goods.

5 2. But unless the mortgagee consents to such removal or disposition, it shall constitute default (iii)

10 (a) to fail to duly give the mortgagee at least ten days' notice of the destination and approximate time of any removal of the goods from a filing district in which the instrument has been or may be duly filed, unless such removal is only for temporary uses for not exceeding thirty days (iv) or due filing has already occurred at the place of destination, or

15 (b) to fail to duly give the mortgagee, at least ten days before delivery of the goods or of any instrument transferring or encumbering the mortgagor's interest therein, notice of the name

and address of the intended purchaser of the mortgagor's interest (v).

- 20 3. This section shall apply to any portion of the goods removal or disposition of which would substantially impair the security; but shall not apply to the situations covered by Section 39 (vi); nor to removal from place to place within this State of goods as to which filing has been duly had under Section 47 (2) (vii).

Discussion:

(i) While leaving the parties free to contract against either removal or sale by the mortgagor, the section follows the Conditional Sales Act, sec. 13, in requiring such limitations to be express.

(ii) *Junior mortgage.* Subsection 1 makes it plain that any junior mortgage or lien, not covered by Section 39, takes effect only subject to the senior mortgage.

(iii) This section also continues the policy of the Conditional Sales Act, sec. 13. The provisions, on penalty of default, provide for notice to the mortgagee so that he may be in a position to protect his rights, while leaving the mortgagor free to dispose of his own interest in the goods to best advantage.

Section 31 provides the additional pressure of the criminal law against fraudulent removal and sale.

(iv) Goods falling within Section 46—*rolling stock*—are there expressly exempted from this section; and automobiles, being filed not in a county but in one place for the whole state, are largely exempted. The question of removing *pleasure cars* for the summer remains; is it too great a hardship to require notice of the summer location to be to the mortgagee?

Or due filing has already occurred. This is the case of removal *to the residence* of the mortgagor.

(v) The point of *delivery* of the goods or the instrument is definitely fixed upon, in timing the notice, so as to avoid dispute as to the effect of a conditional sale or contract for sale.

(vi) Section 39 deals with liens arising out of benefit to the goods, which are fully covered in that section. The present section is only directed at deliberate transfer by the mortgagor.

(vii) Motor vehicles licensed and with the mortgage filed in the central bureau.

Section 30. Impairment of Security and Destruction of Goods.

(1924, Sec. 17, p. 16, and Sec. 48, p. 39; with additions.)

1. If the mortgagor, without consent of the mortgagee, shall substantially injure the goods, or conceal or purport to sell or otherwise dispose of them or any substantial part of them under claim of full ownership, or otherwise by his act or fault substan-

5 tially impair the value of the agreed security, save so far as is consistent with reasonable use of the goods, such action shall constitute default (i).

2. But, unless otherwise provided in the instrument,

10 (a) the injury or destruction of the goods without fault of the mortgagor shall not constitute a default (ii); and

(b) risk of such injury or destruction, until final sale on foreclosure, shall rest on the mortgagor (iii), as to any obligation secured for which the mortgagor is personally answerable.

Discussion:

(i) This provision, in general, seems a necessary and proper corollary of Sections 34, 28, and 29, on the relative rights of mortgagor and mortgagee. *Reasonable use* is taken to include such action as feeding mortgaged hay to cattle covered by the same mortgage.

The words *conceal* and *substantially impair the agreed security* cover change of the nature of the goods, such as affixing the goods to another person's realty, under Section 16 and 58 (a). Special cases are covered by Sections 32 (2), 29 (2), 39 (3), etc.; but it seems desirable to have language broad enough to cover any unforeseen cases.

Waiver of default. For this see Section 37.

Mortgagor's negligence contributing to accident. The present section, by the words *act or fault*, may perhaps be too broad. Unless it is expressly provided that the mortgagor shall keep the security up to a stated value, accidental destruction by fire, contributed to by the mortgagor's negligently dropping a match or cigarette butt, is hardly within the contemplation of the parties as a default. The same is true of an auto smash-up, both drivers being negligent. The Committee request advice on this point. Particularly troublesome is such a case, when the mortgage provides that default shall accelerate the note.

(ii) This is elementary. If the mortgagee desires it otherwise, he can provide that the security must be continuously kept up.

(iii) This likewise should be elementary. The mortgage secures a debt. Whether or not possession has been taken on default, the mortgagee's interest is a pure security interest. The risk belongs to the owner of the beneficial interest. So that destruction of the goods leaves the debt still in force in the typical case where the mortgagor carries personal obligation in addition to the mortgage. If he has no such personal obligation, no question of risk arises between mortgagor and mortgagee. The goods are gone, and so is the mortgage.

Section 31. Fraudulent Injury, Concealment, Removal and Sale.
(1924, Sec. 13, p. 15; with minor additions.)

When prior to satisfaction the mortgagor maliciously, or with intent to defraud, and without consent of the mortgagee,

1. Shall conceal all or any substantial portion of the goods or remove them to a filing district where the mortgaged instrument or a copy thereof is not filed, without having given the notice required by Section 29 (2) (a), or shall procure or be a party to concealment or removal, and
2. Shall thereafter or in conjunction therewith purport to sell or otherwise dispose of such goods under claim of full ownership, he shall be guilty of a crime and upon conviction thereof shall be imprisoned (in the County Jail) for (not more than one year) or be fined nor more than (Five Hundred Dollars) or both.

Discussion:

This section is inserted to cover the contingency that the criminal law of any state is not so drawn as to penalize action of this character by a person regarded as "owner" of the goods. Neither embezzlement nor larceny is applicable, under any common definition.

Objective evidence of criminal intent. It will be noted that the section requires, for its application, two elements; a concealment or removal, plus a disposition under claim of full ownership. A moment's reflection will show why this has been done. Many a mortgagor has honestly sold his car without intent to defraud, when a good market offered. Many a man has removed goods intending to be back within thirty days, and been delayed. In such cases the mortgagee is permitted, under Section 30, to foreclose. But to put the threat of a criminal prosecution into his hands, unless the circumstances evidence criminal intent with real cogency, is to put a potent weapon in the hands of unscrupulous mortgagees, and to jeopardize the reputation of honest mortgagors. The present section is believed to steer a middle course, being reasonably effective both against blackmail and against fraudulent diversion.

Fraudulent sale without concealment or removal. A purported sale by the mortgagor of an unencumbered title will almost never be effective. Section 45 (3) presents almost the only exception; and it is felt that a mortgagee who does not look after his goods once in six months should not be able to rely on the criminal law. An unfiled mortgage presents another exception; here again, it is felt that the mortgagee should not be able to rely on the criminal law to cure his own negligence. In all cases where the mortgagee has done his job, no criminal provision is necessary in this Act, because the purported sale of an unencumbered title *will*

amount to obtaining money under false pretenses under the existing law. And see Warehouse Receipts Act, sec. 55, and Bills of Lading Act, sec. 47, making criminal certain sales of mortgaged goods.

Section 32. Judicial Levy on Mortgagor's Interest. (1924, Sec. 14, p. 15; with a slight addition.)

1. The interest of the mortgagor, before or after default, shall be subject to attachment or levy by judicial process, and any levy on the goods as the mortgagor's shall reach such interest.

5 2. Failure within ten days to redeem the goods from any foreclosure or any lien arising from judicial process shall, at the option of the mortgagee, constitute default.

Discussion:

This section makes it clear that the mortgagor's creditors may take all that he has. At the same time, since involuntary alienation makes the goods difficult to trace, the mortgagee is given the option of foreclosing. This works in the interest of both parties, since execution sale subject to a mortgage is unlikely to yield full return. At the same time, the mortgagee is protected by his option from being forced into foreclosure if he does not so desire.

Bankruptcy of the mortgagor, in its effects, is not subject to this Act. But the draftsman recommends that *receivership* in *equity* be likewise made to give the mortgagee the option of foreclosure.

Section 33. Discharge and Filing Thereof. (1924, Sec. 34, p. 32; recast.)

1. After discharge, upon notice of demand duly given by the mortgagor, the mortgagee shall execute and deliver a statement that the mortgage has been discharged (i); and such statement may be filed.

5 2. If for ten days after such demand the mortgagee fails to mail or deliver such a statement of discharge, he shall be liable for all damages suffered thereby (ii); and shall forfeit to the mortgagor ten per cent. of the amount of the obligation secured (iii).

Discussion:

(i) This expresses the existing law.

(ii) This also expresses the existing law and is in harmony with the Conditional Sales Act, sec. 12.

(iii) The draftsman of the Conditional Sales Act continues of that opinion a *substantial forfeit* is a desirable provision of such a section as this. The draftsman of the present Act concurs in that opinion. Damages in such a case are always difficult to prove, and the failure of the mortgagee is un-

reasonable and vexatious. In this connection, however, reference must be made to Section 51 (1), which provides that the filing expires, in any event, six months after the maturity of the obligation secured, and which in many cases will make the filing of a satisfaction-piece unnecessary to clear the mortgagor's title.

Rights of Mortgagee

Section 34. Primary Rights of Mortgagee. (1924, Sec. 3, p. 9; with additions.)

1. The mortgagee shall have the right that the goods be held subject to the mortgage and, save as provided by agreement or this Act, that the substance of the security be preserved, so far as is consistent with reasonable use of the goods, and unimpaired by the mortgagor's act or negligence (i).

2. The mortgagee may, before or after default, enforce his interest, by possessory or other action, against tortious interference of third persons (ii).

3. On default, the mortgagee may foreclose as provided in Part V.

Discussion:

- (i) This states the current existing law. See also Sections 28 and 30.
- (ii) Such provisions are not common in the uniform statutes. The draftsman, however, believes this one essential in this Act.

(a) *Title or lien theory.* Since the Act has consistently attempted to avoid adopting in terms either the title or the lien theory of mortgage (see note (ii) to Section 9), the question must inevitably arise in the courts as to which of the parties is so far "owner" as to be entitled to sue tortious third parties. It seems necessary to settle this expressly.

(b) *Mortgagee out of possession.* There is, further, a curious and fairly numerous line of cases which have refused a mortgagee out of possession and, in any event, a mortgagee before default, any possessory remedy against third parties. There is conflict on the point, and it seems essential to settle it in favor of the reasonable authorities. See further under Section 40.

Release or surrender by mortgagee. See Section 36.

Waiver by mortgagee. See Sections 37, and 36 (2).

Compromise after default. See Section 70.

Section 35. Assignment of Mortgage. (1924, Sec. 35, p. 33; recast.).

1. The mortgagee may at any time assign his interest (i).

2. The assignment, absolute or for security (ii), of any obligation secured by a mortgage shall, except as otherwise provided in this Act, carry with it the mortgage, and the assignor shall be accountable to the assignee for any action thereafter taken with respect to the mortgage.

3. The assignment of a portion of any obligation secured by a mortgage shall constitute the assignor to that extent the trustee of the assignee with respect to the mortgage (iii).

4. But where the obligation secured by the mortgage is evidenced by a negotiable instrument, the law of negotiable instruments shall determine the relative rights to the mortgage of prior and subsequent assignees or holders, as between themselves and as against the mortgagor (iv).

Discussion:

(i) The Statute of Frauds, as applied to assignment or contract to assign, is left untouched.

(ii) This clause is inserted to prevent the continuance of the question which has sometimes arisen as to whether a pledgee or a mortgagee of the mortgagee's interest took rights equivalent to those of a vendee.

(iii) This and the preceding sections in general express the existing law.

(iv) This section expresses the existing law and, of course, qualifies pro tanto subsection 2. No attempt is made to settle whether a holder in due course of the negotiable instrument does or does not take the mortgage free of equities. That question is believed to fall rather in the field of negotiable instruments. But the language does invalidate payment by the mortgagor to his mortgagee, after the latter has transferred a negotiable instrument.

It is believed that subsection 2 is sufficient to make the assignor a trustee where he purports to assign the mortgage without expressly assigning the debt; and that it is likewise sufficient to bar the transferee "of the mortgage" from taking any rights if the debt has previously been assigned to another.

For *filing of the assignment*, and the effect thereof, see Section 54.

Section 36. Release, Discharge and Compromise by Mortgagee.

(New)

1. The mortgagee may by signed writing discharge the mortgage, and no consideration shall be necessary for such discharge (i).

2. Any such discharge, and any waiver or agreement made pursuant to Sections 37 or 70, shall be effective in favor of the mortgagor, provided the mortgagor at the time had no notice of any assignment or intervening right (ii).

Discussion:

(i) This provision is clearly necessary, and expresses the existing law. It has no reference to discharge, without consideration, of the *underlying debt*, in states which do not permit such discharge except by formal release, or surrender of negotiable paper.

(ii) The case arises not uncommonly of a mortgagee transferring the note, and afterward taking the goods in purported discharge of the obligation. One such situation is expressly covered by Section 54 (2). Another is impliedly covered by Section 35 (2) and (3). But so many variations occur in the facts—as, for instance, the entrusting of the papers by the assignee to his assignor for collection of interest—as to make the rule of the text desirable. Indeed, the draftsman recommends express extension of that rule to cover *all third parties relying on the mortgagee's apparent ownership*: so, for instance where, the assignment not being filed, the mortgagee accepts the goods in discharge and then sells them to a bona fide purchaser. Where the mortgage secures a negotiable note, and only the note is transferred, this situation readily arises.

Section 37. Waiver by Mortgagee. (New)

1. The mortgagee may, without consideration, expressly or impliedly waive any default by the mortgagor either before or after such default (i); but in waiving a past default he may expressly provide that he does not thereby waive future default of like nature (iii).

2. If the mortgagee fails, within thirty days after notice of default, to assume or demand possession or institute suit for foreclosure, this shall constitute waiver of the default (ii), so far as based upon any act or event occurring before such waiver (iii).

3. Where, a payment of principal or interest being due, the mortgagee accepts less than the amount due or accepts the whole or part of such payment when overdue, such acceptance shall constitute a waiver of any default by reason of the failure to make such payment punctually or in full (iv).

Discussion:

(i) This is the usual and, it is believed, the desirable rule.

(ii) This provision is intended to prevent avoidable dispute and difficult questions of oral evidence as to waiver by the mortgagee. The section is not operative until the mortgagee *has notice* of the default and it gives him thirty days within which to take action. This is all that he can fairly demand.

(iii) The limitation of the waiver to previous acts would seem to reinstate the mortgage entire. Under the liberal redemption and foreclosure provisions there is no need for the severe rules on waiver often applied by the courts to avoid forfeiture.

(iv) This provision expresses the general rule, and is fair to the mortgagee, in limiting the waiver to the past default without affecting his rights as to the future. *Default* is so defined by Section 1 that this section clearly does not discharge the *debt*, as to any part unpaid.

Section 38. Judicial Levy on Mortgagee's Interest. (New)

1. The mortgagee's interest in the goods shall, both before and after default, be subject to attachment or levy by judicial process (i).

5 2. But where the obligation secured is a negotiable instrument, no such attachment or levy can be made unless such negotiable instrument is impounded by the court (ii).

10 3. In any other case, such levy may be made by filing, in like manner as hereinafter provided for filing an assignment of the mortgage, a statement signed by the levying officer, identifying the mortgage, and indicating the amount for which, and the action pursuant to which, levy is made; but to be effective against the mortgagor, notice of such levy must be duly given to the mortgagor (iii).

Discussion:

(i) Under the doctrine of the cases referred to in note (ii) (b) to Section 34, it has been held that the interest of the mortgagee before default is not subject to execution. Such an absurdity should be expressly provided against.

(ii) The qualification regarding negotiable instruments is necessary under the rule that a debtor cannot be garnished when a negotiable instrument is outstanding, and that transfer of the debt carries with it the mortgage. The Acts on warehouse receipts, bills of lading and stock transfers permit levy if *negotiation is enjoined*. But that is not law as to negotiable instruments payable in money, and should therefore not be included here.

(iii) This clause provides a convenient method of making a levy, while leaving the goods in the hands of the mortgagor; while the qualification gives the mortgagor due protection, in the absence of notice, in dealing with the mortgagee. See Section 54.

Section 39. Liens in Course of Business Good Against the Mortgagee. (1924, Sec. 15, p. 15; with slight additions and modifications.)

1. Liens given by any statute or rule of law against an owner of goods, for services performed or materials furnished in connection therewith, shall attach against the interest of the mortgagee as well as against the interest of the mortgagor, although the
5 instrument be duly filed or the lienor have notice of the mortgage.

2. But such liens shall not so attach beyond twenty-five percent, of the original amount secured by the mortgage.

3. And failure by the mortgagor to dissolve any such lien within ten days after notice of demand duly given by the mortgagee shall constitute default; and the mortgage may provide that sub-
10 jection of the goods to any such lien shall constitute default.

4. But this section shall not of itself obligate the mortgagee personally for the debt secured by any such lien.

Discussion:

For an admirable discussion of the common law as it affects this situation see H. E. Whiteside, in 10 *Cornell Law Quarterly*, 331. That article develops clearly that at common law an innkeeper or lodging house keeper is protected against a mortgagee in spite of record or filing, and most other lienors are not. The article, however, discusses hardly at all the growing body of statutes which protect repairmen, agisters, croppers and threshers, etc., under similar circumstances.

The issue of policy is clear. So far as a mortgagor is given use of the chattel, and especially so far as the particular expense in question is essential to the commercial use of the chattel, or enures to the benefit and continued or increased value of the chattel,—such as ordinary repairs on a motor truck, or liens for harvesting grain, or feed for live stock—it seems commercially obvious that the mortgagee is as much concerned with such use as is his mortgagor. Particularly is this so, where the use on sale of the goods is expected to earn the means of liquidating the debt, or where without such expense the goods may become valueless, as with the harvesting or threshing of grain. By entrusting the use of the chattel to the mortgagor, the mortgagee must be regarded as acquiescing in the mortgagor's reasonable discretion in such outlays. And the whole value of the goods, for the benefit of both, is commonly preserved or increased by the acts resulting in the lien. As against this is the common difficulty of overrepairing, especially in the case of an automobile after a smash-up. The one policy is exemplified by admiralty liens, receivership certificates, and statutes preferring a repairman's lien to a mortgage. The other is ex-

emplified by the majority common law view that the first lien always takes preference, and by statutes requiring a garage man to secure the owner's consent in writing before repairs beyond a certain amount will be chargeable. The Act adopts the former view, subject to a limitation.

What liens are included. The language of the section is broad enough to cover labor liens, advances to make the crop, common law or statutory liens for improvements or repairs, warehousemen's charges on the particular goods, factorage charges on the particular goods, stallion service liens, etc. At the same time, general liens are excluded. Innkeepers' liens are limited, as against the mortgagee, to charges *for the goods*.

It is believed that subsection 1, as modified by subsections 2 and 3, achieves a general protection to all parties without unfairly prejudicing any.

Subsection 2 is limited to twenty-five per cent. *of the original amount secured* by the mortgage because the *price* of a chattel which has been used is no longer an index of its *value*, and because the value, either before or after the repairs, is a matter of estimate. This limits the effect of the section so that the mortgagee's interest is not unduly burdened, even by injudicious action of the mortgagor; at the same time it leaves lienors reasonable protection.

The draftsman feels the substance of this section to be as essential to a sound Act as is that of Sections 25 and 26. The fact that those sections happen to work in favor of the mortgagee, while this works against him, seems nothing to the point.

Section 40. Full Damage against Third Parties Recoverable by Either Party. (New).

In any action for injury to or conversion of the goods, either the mortgagor or the mortgagee may recover the full damage, and the proceeds shall be disposed of as hereinafter provided for the proceeds of insurance (i); but this section shall not be construed, of
5 itself, to give either mortgagor or mortgagee the power to release or compromise the interest of the other (ii).

Discussion:

(i) Not only is it necessary to provide that either party can sue, but, in order to avoid delay and procedural difficulties, it seems essential to allow either party to recover the whole damage. Reference is made, for comparison, to the inconvenience of those cases holding that the transferee of an order bill of lading cannot sue the carrier where the injury to the goods occurred before he purchased the bill of lading.

If both parties should start action, it is assumed that the first action to terminate in judgment would abate the other, under the general rule.

(ii) The necessary attempt to avoid procedural difficulties should not put it in the power of a mortgagor to make a collusive or half-hearted compromise merely because of a prior conversion. The section on insurance referred to is Section 41.

Section 41. Disposition of Insurance. (1924, Sec. 18, p. 16; recast to simplify administration.)

1. Where goods mortgaged are insured, whether for the benefit of the mortgagor or of the mortgagee or of both, any proceeds of such insurance shall stand, as between mortgagor and mortgagee, in place of the goods (i). But nothing in this section shall invalidate any payment made by an insurer pursuant to the terms of the policy (ii).

2. Where such proceeds have been paid to the mortgagor, the mortgagee may by notice duly given demand either,

(a) the deposit in trust of such proceeds up to the greatest amount which may become due under the mortgage, or,

(b) at the mortgagor's option, if the mortgage lacks more than thirty days of maturity, the purchase of goods in substitution of the goods destroyed, and the giving of a new mortgage on such goods on like terms and conditions with the old (iii).

3. If the mortgagor refuses, or within ten days after such notice fails to comply with such demand, the mortgagee may either compel specific performance, or may treat such refusal or failure as default (iv), and, subject to the rights of purchasers for value and without notice (v), shall as to any identifiable proceeds of such payment have the rights provided in this Act in case of default.

4. If such proceeds have been paid to the mortgagee, the mortgagor may at his option by notice duly given demand either,

(a) that the proceeds be credited against the obligation secured, or

(b) that they be held subject to Section 67 (2) and (3), or,

(c) in the absence of default, and if the mortgage lacks more than thirty days of maturity, that such proceeds be turned over to him for purchase of goods in substitution of the goods destroyed, against the giving of a new mortgage on such goods on like terms and conditions with the old.

Failure of the mortgagee, within ten days after notice of demand duly given, to comply with the last option, shall have like consequences as failure to give a statement of discharge, under Section 33 (2). (vi).

Discussion:

This section involves a somewhat new departure in the law, although one which is increasingly felt as just and necessary, and which has, in substance, long been law in Massachusetts. It will be noted, however, that only by some such regulation can the mortgagee be assured the continuance of his security at the same time that the mortgagor is assured the possibility of using the goods mortgaged, as contemplated by the mortgage, to work out his debt.

It will also be observed that the last sentence in subsection I expressly prevents the section from hampering the action of the insurer. This is necessary first, in order to prevent the section from being unconstitutional as covering insurance in an act purporting to cover only mortgages; and secondly, in order to minimize conflict with or objection from insurers. The section in no way limits the insurer's right to be subrogated, on paying the mortgagee, to all the mortgagee's rights to debt and goods. It does limit the mortgagee's rights to which the insurer is subrogated. And this is entirely within the proper scope of this Act.

(i) This constitutes the declaration of policy on which the section is based.

(ii) As indicated above, this is believed to prevent the section from in any way affecting an insurer's action.

(iii) This section provides for the mutual protection of mortgagor and mortgagee in their anticipated rights. But a period of thirty days or less is disregarded. Perhaps this period should be somewhat increased.

(iv) This language is intended to make administration of the provision easy and simple.

(v) This limitation is believed to be adequate to protect third parties. *Attaching creditors* are omitted here, and the draftsman requests the advice of the Conference whether they should be included. On the one hand, it may be argued that lien creditors are everywhere in the Act put on a footing substantially equal to that of purchasers; on the other, it may be argued that such creditors will not suffer by a substitution of the new lien for a lien destroyed only by unavoidable accident. The draftsman recommends that they be omitted, in view of the unforeseeable character of the events contemplated by the section.

(vi) No ready means of enforcement of the last option is available. A suit for specific performance is too slow, and damages are exceedingly difficult to prove. A penalty therefore seems requisite. The mortgagee is protected by being entitled to the new mortgage before he pays over the proceeds. Here again, the section would be perhaps sounder and fairer if the period were doubled.

PART IV

NECESSITY, MANNER, AND EFFECT OF FILING

Necessity and Place

Section 42. Mortgages Void as to Certain Persons. (1924, Sec. 19, p. 18; with an alteration in subsection 1; an omission, the old last clause; and an addition, the present subsection 3.).

1. (i) A mortgage shall be void as against any purchaser who without notice of the mortgage both gives value and obtains delivery (iii) of the goods or perfects his lien thereon, before the instrument is duly filed; and

5 2. (ii) A mortgage shall be void as against any creditor of the mortgagor who without notice of the mortgage (iv)

(a) secures the issuance of judicial process which before the instrument is duly filed results in attachment of or levy on the goods (iv), or

10 (b) otherwise, before due filing, becomes a lien creditor as to the goods (v).

3. A person holding a validly filed or recorded antecedent mortgage, real or personal, covering after acquired goods of the mortgagor, shall be deemed a purchaser from the time the goods
15 are affected by his mortgage, as against a subsequent unfiled mortgage given for old value; but as against a subsequent unfiled mortgage given for new value, he shall be deemed a purchaser only after the expiration of sixty days from execution, or from the time and to the extent of new value given by him after the goods are
20 affected by his mortgage, or in reliance on their being so affected (vi).

Discussion:

(i) *Shall the filing be retroactive as against purchasers?* Under the Conditional Sales Act, sec. 5, filing within ten days after the contract is made retroactively valid against purchasers. The present draft seems at first blush opposed to this in policy. Such opposition is only apparent. The Conditional Sales Act deals almost exclusively with *new* possession by a person who never possessed the chattel before the contract was made. Persons proposing to deal with that chattel may fairly inquire how the new possessor came by it. But the Chattel Mortgage Act—save for

purchase money mortgages—deals with *old* possession, and continued possession, by one who has all the earmarks of an owner of standing, by one whose title is *not derived from*, but *pro tanto impaired by*, the chattel mortgage. Inquiry into the original title of a conditional vendee would reveal the vendor's claim; inquiry into the original title of a chattel mortgagor would reveal nothing of the mortgagee's rights. The analogy is therefore not to the conditional vendee, but to the vendor of chattels who remains in possession under his old apparent title, after he has passed title to his vendee. Under the Sales Act, sec. 25, such a vendor can defeat his vendee's title by transfer *and delivery* to a bona fide purchaser paying value. Filing a mortgage is the substantial equivalent, in fact, policy, and law, of delivery under a sale. Substantial harmony thus results when the present draft follows the Sales Act analogy.

Purchase-money mortgages are more similar to conditional sales—each represents a new possession. But even in such a case, it is felt that when a subsequent bona fide purchaser is more diligent than the original mortgagee, and not only gives new value, but by taking delivery or filing a further mortgage goes through the very precautions the original mortgage omitted, such bona fide purchaser should prevail. And the distinction will commonly still exist, that whereas inquiry into the title of a conditional vendee will reveal a *conditional* bill of sale, such inquiry into the title of a purchase money mortgagor will reveal a clean bill of sale, the mortgage back being separate and undisclosed.

(ii) *Shall filing be retroactively valid against creditors?* As to creditors, the case is stronger in favor of the mortgagee. For under a purchase money mortgage, as under a conditional sale, the debtor's estate is increased quite as much, under normal circumstances, as it is depleted by the security withheld in favor of the conditional vendor or of the mortgagee. The chattel is added; and it is only the chattel itself, as security for the price, which is withdrawn. Creditors thus rarely stand to lose by having the particular chattel—which is a new addition to the estate—withheld from them. A reasonably diligent filing of the mortgage might therefore well be made retroactive *as against creditors*. This was done in Section 5 of the draft of 1923. But a perusal of that section will show the extreme complexity of the rules which result. And it is now questioned, when a *mortgagor who is in fact so shaky as to be in danger of attachment* seeks advances, whether he can in practice procure his money before the papers are filed. Creditors will take risks in dealing with healthy borrowers which they avoid with care in dealing with shaky ones. It is therefore believed that to refuse retroactive effect to the filing, even of a mortgage given to secure new advances, as against attaching creditors, will in practice result in so few cases of injustice as to justify the simplifying of the section in the manner adopted in the text. For it is not believed that cases will in fact be common in which a mortgagor *on whom levy is impending* will be able to have the advance paid over before filing.

Cases not covered. Nevertheless, this simplification of language leads in two situations to results which seem to the draftsman thoroughly undesirable.

(a) A mortgagee who gives *no new value*, but who is seeking simply, *ex post facto*, to better his position against other creditors, and who has *not* completed his job of perfecting his lien, seems to the draftsman to have no reasonable standing as against any of these other creditors who is about to complete *his* job of perfecting his lien by a valid attachment or levy on the very goods concerned. Notice that such a mortgagee has begun to get a mortgage seems to the draftsman to stand on the same footing as notice that a rival creditor is suing out an attachment. Such notice indicates a rival's intention, not his accomplishment. It presents reason, not to lie down, but to act more quickly in the race of diligence. Under the draft as it stands, such notice is nevertheless effective. There is this mitigation: that if the estate is not sufficient, such a mortgage can be upset by bankruptcy. But bankruptcy is expensive. And sometimes the goods in question are the only goods of a solvent but stubborn debtor which are in the jurisdiction and subject to levy. If this result of the draft is to stand, it must be defended largely on the ground that the rough and ready rule of thumb in the Draft is clear, and can be uniformly administered, whether the judge be expert in the particular field of law or not; and that fairly forecastable administration saves appeals; also, that too complex a statute is less likely of adoption; and that these advantages outweigh the injustice done in occasional individual cases.

(b) Under the draft as it stands a purchase money mortgage, or other mortgage given for new advances, and still unfiled, can immediately be defeated by a further mortgage, although the latter is given merely as *ex post facto* security to a theretofore unsecured creditor,—provided only this new mortgagee files before the first. This constitutes flat diversion of one man's security, for which he has expressly bargained, into the hands of another man who was originally willing to become a creditor on pure faith. What is said under (ii) as to the unlikelihood of a loan being actually paid over to a shaky borrower before filing is accomplished, has some force in mitigation; but not too much force. For preferential mortgaging of this character is likely to take place long before attachments at law begin; the debtor commonly knows his shaky condition before the bulk of his creditors discover it. Neither will the original mortgagee necessarily be put on prompt notice by the filing of the later mortgage, for he searches the record, if at all, *before* taking his mortgage, not after. To be sure, if he discovers the facts in time, he has some remedy: if prompt indemnity is not forthcoming, he doubtless can upset the later mortgagee by bankruptcy proceedings, and reestablish his own; and if he cannot, he has at least some hope of showing such fraud as will prevent the debt from being barred. But

such discovery of the facts is by no means certain. Here again, defense of the present draft must rest on the considerations given at the close of paragraph (a) above.

(iii) The double requirement of value *and* delivery follows the Sales Act, sec. 25. See (i), *supra*. In the draft of 1924 only the giving of value was required, in analogy to the real estate mortgage law of Iowa. It is submitted that it is wiser policy, where a choice must in any event be made, to put sale and mortgage of chattels on the same footing, rather than to make either, *without the other*, conform to the real property mortgage law—which is itself not uniform on this point throughout the country.

(iv) One policy underlying most chattel mortgage statutes has been to aid creditors to realize on their claims. The inconvenience arising from requiring *actual levy* to be made *without notice* is clear: the debtor can and constantly does claim everything in sight to be under unfiled mortgages, and thus seriously embarrass the sheriff. The language here requires the *issuance of process before notice*, and the *levy before filing*. This slightly departs from the language of the Conditional Sales Act, sec. 5; but as will be seen from a perusal of the cases cited in the Commissioners' Note to that section, is in full accord with the policy of that section. Almost without exception the considerable body of cases there presented involve *notice before issuance of process*.

(v) This language carries out the policy indicated under Section 1, *lien creditor*, to expressly include receivers, distraining landlords, etc., who are clearly within the intent of the corresponding language of the Conditional Sales Act, but have been held not to fall within that language. It is assumed that a *trustee in bankruptcy* will be treated as a creditor levying *without notice*.

On the other hand, it carries out the policy of the Conditional Sales Act, sec. 5, to exclude from protection creditors who have not been sufficiently up and doing to get rights in the specific goods. If a creditor merely *is such at the time* of the mortgage, no reason appears for invalidating the mortgage as against him. If he *subsequently* becomes a creditor, he may have been in part misled; but he was willing to go unsecured, and to take the risk either of later mortgages or of later attachments, so far as he cannot upset them by bankruptcy. And the policy of the Draft is not, to bother mortgagees who proceed in due course to perfect their liens, nor to turn unsecured creditors into a preferred class as against such mortgagees; the policy is, rather, to help a diligent creditor to get his claim paid, when he is acting in good faith. This is accomplished by limiting the invalidity of the mortgage to lien creditors.

Lien creditors; prior and subsequent creditors. For a strong presentation of the view that protection should be limited to creditors who have been misled by the appearance of unencumbered title, and therefore to creditors who become such *after* the mortgage; and of the view that obtaining a lien should be immaterial, see Bogert, *Commentaries on Con-*

ditional Sales, 84. The only answer to the positions there taken is, that one major policy underlying chattel mortgage legislation has been not only to protect persons misled by appearance of ownership, but to help creditors realize their debts. The legislation relates partly to remedial procedure, and deliberately requires a mortgagee to warn creditors off or take the consequences. And in view of the fact that assets of a stubborn debtor are commonly hard to find, the draftsman believes this policy sound.

No limitation on the time of filing. The practice is not uncommon, of giving one beloved creditor a perhaps undated mortgage on the cream of the estate, to hold until he thinks it wise to file. Realization of such a mortgage by taking possession after default is clearly invalid, under this draft, as against *intervening* lien creditors; it is valid as against creditors thereafter attempting to secure a lien. But under the decisions the *transfer* constituting a voidable preference does not take place until such possession taken or filing. Hence other creditors are warned in good time, where they have occasion to attack it by bankruptcy. *After acquired* goods stand on special footing, under Section 25.

(vi) The draftsman found no way of defining the rights of persons who later claim the goods under a mortgage made *prior* to the one in question, except by a special section. The policy involved is clear: as between two persons bargaining for security for old debts, the one whose steps are first *completed*, is preferred; but a mortgagee who has made *new advances* is protected if he files within the time set, except so far as his failure to file misleads another to the latter's definite prejudice.

It is to be remembered that *mortgage*, under Section 9, means *any* transfer of chattels for security which leaves possession in the debtor: Subsection 3 would thus include a lease of realty reserving express lien in the landlord as to chattels later brought on the premises.

Section 43. Place of Filing. (1924, Sec. 20, p. 21; rearranged, but practically unchanged.)

1. The instrument (i), wherever executed (ii), shall be filed:

(a) in the office of thein the filing district in this State in which the goods are located at the time the mortgage is given (iii); and

5 (b) if the mortgagor, at the time the mortgage is given, resides in this State but not in the filing district in which the goods are located, then also in the office of thein the filing district in which the mortgagor resides (iv).

10 2. This section shall not apply to the mortgages described in Sections 46, 47, and 48.

3. For purposes of determining the place of filing, the residence of a corporation, partnership, business trust or other association, shall be taken to be at its principal place of business in this State (v).

Discussion:

(i) *Filing by a certified copy* is permitted, under Section 52 (4). The original may be filed, but will normally be retained by the mortgagee. The certification of the copy gives some assurance that the copy as filed is accurate, over and above what is provided by the criminal penalty of Section 60.

(ii) The words *wherever executed* are necessary to cover definitely the case of a mortgage made outside of the State on goods within the State.

(iii) Under the present arrangement the Act appears to choose the location of the goods as the primary place for filing. There is no intention to depart from the choice of the residence of the mortgagor as such primary place, but the present arrangement makes possible considerable condensation, as will be seen by comparing this with the corresponding section of 1924.

Are located. For the case of goods intended to be kept elsewhere than at their location when mortgaged, see Section 44. For that of goods removed into a new filing district, or into the State, see Section 45.

(iv) This provision requires double filing whenever the residence of the mortgagor is not in the same district with the location of the goods. The reasons are two-fold: first, that this hampers the accomplishment of fraud by the giving of a false residence, because *in any event* filing must be had at the situs; and second, that a chattel mortgage affects not only the title to the goods but the credit standing of the mortgagor, and therefore should be filed wherever either the chattel or the mortgagor is located.

(v) This section is necessary to avoid the construction that the *residence* of a partnership or association is the residence of each of its members

Special cases. The seven sections following cover special cases.

Section 44. Goods Intended for Transit. (1924, Sec. 21, p. 22; unaltered in substance.)

Where, at the time a mortgage is given, goods covered thereby are in transit or are intended to be and within a reasonable time actually are put in transit, such goods are to be taken for purposes of Section 43 as located at the place of destination.

Discussion:

Difficulties are presented as to the situs for purposes of filing of goods in transit or intended for removal. This is of course especially true where goods are bought for use elsewhere, with mortgage back. It is believed that these difficulties are met by this section without ambiguity.

Transit. Transit is the broadest word the Committee could find. It is not desired to limit the section to goods being transported, but to cover, as well, an automobile or mule or herd driven from one place to another.

It has been objected that this section is unfair to a creditor who levies on the goods during transit but after filing has taken place at destination. To this the answer must be three-fold.

(a) If the mortgage is given for new value, the creditor suffers only temporarily by having the goods exempt from judgment; he can find his remedy, if necessary, out of the new value given by the mortgagee; the total estate has not been depleted; and to defeat the mortgagee would be greatly to discourage financing which often is needful.

(b) If the mortgage is given for old value, the claim of the creditor is stronger, but it may be urged that if he cannot otherwise satisfy his claim, he can upset the mortgage by bankruptcy proceedings, despite this Section.

(c) Finally, even if such a creditor suffers hardship, it is hardship which there is no feasible method of preventing. All possible provision for notifying him is made. And while the Draft prefers creditors and purchasers not reached by notice, where the failure of notice is due to fraud or breach by the mortgagor—as by giving a false name, or fraudulent removal of the goods to another state, or changing their nature—yet this is because the mortgagee, as a credit risk, passes on the honesty of his debtor. A diligent mortgagee should not, as against the creditor, bear risks due not to the debtor's dishonesty, but to the fact of life that goods are not always bought where they are used.

Section 45. Filing or Refiling on Removal. (1924, Sec. 33, p. 30; with the addition there suggested in the note.)

1. When goods (i) not subject to Section 44, but subject to a mortgage which is valid as against third parties under the law of the place in which such goods then are (ii), are removed into a filing district in this State, such mortgage shall nevertheless be
5 void as against the persons and under the circumstances described in Section 42, if the mortgagee before removal had notice of the place to which removal was intended (iii).

2. If the mortgagee did not before removal have such notice, the mortgage shall nevertheless be void as provided in subsection
10 1, unless the instrument is duly filed within ten days after the mortgagee has received notice of the filing district to which the goods have been removed (iv).

15 3. And if the instrument is not duly filed within six months after such removal, the mortgage shall thereafter be void as provided in subsection 1, although the mortgagee neither consented to the removal nor had notice of the destination (v).

20 4. Due filing within the meaning of this section means filing as though the goods had originally been located in this state; and the provisions of this Act with regard to place, manner and effect of filing shall apply to filing under this section (vi).

Discussion:

(i) Clearly rolling stock should be, and is, excepted from this section, under Section 46. And since special provision is made in Section 44 for goods intended for immediate transit, they are likewise excluded.

(ii) This language is intended to cover either validity under the present Act, or validity under the possibly different law of another state, out of which the goods are brought.

Subsection 3 differs somewhat in policy from the draft of 1924, and in consequence from the policy of the Conditional Sales Act, sec. 14.

The majority view under the case law appears to be that a mortgage valid in the place where the goods are originally located will be valid after removal to another place, even without new filing, *unless the mortgagee consented to such removal*. The Conditional Sales Act goes further in the direction of protecting third parties, and puts ten days *notice to the mortgagee* of the place to which the goods are, or have been, removed, on the same footing as consent to removal. In a number of our states the legislatures have gone still further and have provided that *after a certain period* (from thirty days up, according to the state) the mortgage shall become *invalid* as against purchasers and creditors from the mortgagor, regardless of either consent or notice to the mortgagee.

During a reasonable period after the arrival of the goods at their new location, it may fairly be urged that either creditors or purchasers should look into their history. But with even greater force can it be urged that within a reasonable period after disappearance of the goods the mortgagee should either trace them or take the consequences of trusting a fraudulent debtor. The two considerations of policy just stated have led to the departure from the Conditional Sales Act here found and to the incorporation of the policy of the statutes referred to.

(iii) This provision is in entire harmony with the Conditional Sales Act, except so far as Section 42 of this Act does away with retroactive filing. The incorporation of Section 42 shortens the section, and emphasizes the exact correspondence of policy.

(iv) This again incorporates the policy of the Conditional Sales Act, and here for the only time in this Act, is retroactive filing permitted. The reason for permitting such filing in this case is to help out a mortgagee

whose goods have been fraudulently removed. This is permissible without undue strain on the policy elsewhere adopted in the Act because, as indicated above, the goods have only recently come into the new territory; and purchasers and creditors may fairly be put on inquiry into their history; moreover, as soon as such a period has elapsed as makes it reasonable for such parties to cease to inquire, subsection 3 comes into operation.

(v) This constitutes the adoption of the recent development of statutory policy. The reasons for believing it sound policy appear above, under (ii).

(vi) *Due filing* is defined, in order to make clear that any filing in another place is ineffective save as expressly provided by the Section. The balance of the subsection is a purely formal and obviously necessary provision.

Section 46. Railroad Equipment or Rolling Stock. (1924, Sec. 22, p. 22; with minor alterations.)

1. A mortgage, by any person (i), of railroad or street or inter-urban railway equipment or rolling stock, when either such equipment or rolling stock is permanently located in this state or the mortgagor has his principal place of business in this state (ii), shall
5 be void as against the purchasers and creditors described in Section 42, unless the instrument shall be acknowledged by the mortgagor in like manner as a deed of real property and such instrument or a certified copy thereof shall be filed or recorded in the office of (the Secretary of State), and such filing shall be sufficient
10 under this Act; and as to any engine or car, such mortgage shall be void as against such persons until such engine or car shall be plainly and conspicuously marked on each side with the name of the mortgagee followed by the word "mortgagee" (iii).

2. The place at which such goods shall be sold in the event of
5 foreclosure may be fixed by the instrument (iv); but any sale pursuant to judicial proceedings may notwithstanding be made at the place directed by the court.

3. Sections 29, 45, and 65 of this Act shall have no application to the goods described in this section (v).

Discussion:

(i) The words *by any person* are inserted as a result of criticism of the Conditional Sales Act, corresponding section, and make it clear that the section is not limited in its effect to mortgages by railroads, but covers also rolling stock owned by packers, refineries, etc.

(ii) The qualifying clauses are necessary to keep the section from applying to rolling stock in transit through the state, and to transactions made in the state with reference to rolling stock used or located elsewhere.

(iii) The balance of the section follows in substance the corresponding section of the Conditional Sales Act, sec. 8, except that the mortgage is not made void by accidental removal of the sign.

(iv) This provision follows the Conditional Sales Act, sec. 19.

Sale in receivership. Sale of such goods commonly occurs in conjunction with receivership and reorganization. The draftsman, therefore, recommends inserting this provision for special sale.

(v) The reasons appear on consulting those sections.

Section 47. Motor Vehicles. (1924, Sec. 23, p. 22; unaltered.)

Where a mortgage is given on a motor vehicle, other than those described in Section 46, the instrument shall be filed:

1. in the office of in the filing district in the state in which the mortgagor resides, if he resides within this state;
- 5 2. and, in any event, if such vehicle be licensed in this state, in the office of (the officer in whose office record of licenses of such motor vehicles is kept.)

Discussion:

There is considerable doubt as to the wisdom of including this section at all. While it is highly desirable to have special regulations for chattels as subject to fraudulent sale as automobiles, yet the automobile laws of the several states are so full and are changing so rapidly as perhaps to make it desirable to leave the question uncovered in a general act limited to mortgages. If any section is to be included, the present section is believed desirable and practical. The filing at the residence touches the general credit of the mortgagor, and is particularly necessary, in regard to unlicensed cars held by a dealer for sale; that in the central bureau touches creditors or purchasers dealing with the specific car.

The answer would seem to be, to include the Section, subject to change by any legislature.

Here again, the filing may of course be made by certified copy, under Section 52 (4).

Removal of motor vehicles within the State. See Section 29 (3), last clause, permitting such removal without notice, if due filing has been had at the central bureau under subsection 2.

Section 48. Fixtures. (New; adapted from Conditional Sales Act, sec. 7.)

1. (i) Where goods mortgaged are at the time the mortgage is given or subsequently so affixed to realty as to be part thereof, then, as to the goods so affixed,

5 (a) the mortgage shall be void as against any then owner or encumbrancer of the realty, unless the mortgagor is as against such owner or encumbrancer entitled to sever the goods, and unless the instrument is filed as provided in this section within sixty days after its execution, or as the case may be, after mortgaged goods are so affixed; and also

10 (b) although the mortgagor is, as against any owner or encumbrancer of the realty, entitled to sever, the mortgage shall nevertheless be void as against any purchaser for value or lien creditor of such owner or encumbrancer who becomes such without notice of the mortgage and before the instrument is filed as provided by this section (iii);

15 (c) except that when, subsequent to the mortgage and without consent of the mortgagee, the goods are so affixed to realty not wholly owned by the mortgagor, but are severable without material injury to the freehold, the mortgagee shall in any event be entitled to severance and delivery of the goods as
20 against any owner or encumbrancer of the realty, on indemnifying such owner or encumbrancer for the damage or expense caused by such severance and delivery.

25 2. As to goods which cannot be severed without material injury to the freehold, the mortgagor shall be deemed not entitled to sever, as against any owner or encumbrancer who has not expressly and in writing assented to severance or to the mortgage.

30 3. The provisions of this section shall apply after goods are affixed to realty as herein described, whether or not the instrument has been filed as required for a mortgage of goods. (iv).

35 4. A person who, after the goods are affixed as in this section described, gives new value, not previously contracted to be given, under a conveyance, encumbrance or lease affecting the realty and existing at the time the goods are so affixed, shall to the extent of the new value so given be deemed a purchaser under this section; and an owner making payment for the addition of the goods to his premises shall, to the extent of such payments, be deemed such a purchaser (ii).

40 5. The mortgage shall be filed as required by this section when the instrument or a certified copy thereof, and a statement signed

by either the mortgagor or the mortgagee briefly describing the realty and stating that the goods are or are to be affixed thereto, is filed in the office where a deed of realty would be recorded or registered to affect such realty; and such statement may be embodied in the instrument or endorsed thereon. And save as provided in this subsection there shall be no formal requisites to such filing other than those specified in this Act for the filing of an instrument relating to goods.

Discussion:

In general this section follows Conditional Sales Act, sec. 7. It is in one sense only an application of Section 58 to special conditions; but the conditions are so common and so complex as to call for particular regulation. Indeed the necessity of providing means of protecting the mortgagee makes a special section necessary.

(i) An owner or encumbrancer of realty, not being the mortgagor, is given full rights to goods which are so affixed to his realty as to become part thereof, except

(1) where he has assented in writing to their severance or to their being separately mortgaged (subsection 2);

(2) where the goods are capable of severance without material injury, and the mortgagor is entitled to sever (subsections 1(a) and (2); and even here, if the mortgagee consented to the goods being affixed, he must file the mortgage within sixty days—a provision intended to penalize the too long continued existence of a condition inviting trouble.

(3) where the goods are capable of severance without injury *and* the mortgagee has not consented to their being affixed; in which case the mortgagee under subsection 1(c) may have his goods again on indemnifying the owner or encumbrancer of the realty. This provision prevents forfeiture of the mortgagee's interest, without penalizing the owner or encumbrancer. It is an addition to the provisions of the Conditional Sales Act. It seems convenient, desirable and just. The mortgagee is in such case entitled to possession for default, since change of the nature of goods without his consent is a default under Section 30. This provision is limited to goods affixed *after the mortgage is given*, because a mortgagee should inquire into the original nature of the goods before taking a mortgage.

(ii) Where an owner or encumbrancer has, after the goods are affixed or in reliance on the goods, given new value, he is under subsection 4 treated as a subsequent purchaser. This is, particularly, the case with owners who pay off building contractors, or with mortgagees making new loans under an already existing mortgage. This provision is an addition to those found in the Conditional Sales Act, and carries out the policy of

Section 42(3). But the words *not previously contracted to be given* are inserted to insure that the new value is given in partial reliance on the addition of the mortgaged goods. Otherwise subsection 1(c) affords sufficient indemnity.

(iii) All subsequent purchasers and lien creditors as to the realty who become such without notice and before the mortgage is filed as an encumbrance on realty, are properly protected, under subsection 1(b).

(iv) And it is made clear that prior filing of the instrument as a mortgage of chattels will not prevent the operation of this section. Subsection 3. This will not, of course prevent such filing from serving as notice, to any person whose dealing with the goods begin before they are affixed.

If goods, once affixed, are subsequently severed, this section becomes thereafter inapplicable, and Section 58 enters into operation; protecting all persons who deal with the goods after their nature is changed, save so far as they are reasonably put on inquiry in the circumstances.

The language of the section is so drawn as to apply to *all or part* of goods included in any given instrument of mortgage.

The *formal provisions* of subsection 5 follow the Conditional Sales Act, with the exception that express provision is made against requiring extra formalities because the record is to affect realty.

Section 49. Single Mortgage of Goods of Different Classes. (1924, Sec. 24a, p. 23; rephrased and made general.)

Where a single mortgage instrument covers goods located in more than one filing district, or goods for which the filing provisions of this Act are diverse, filing in any district or office shall constitute due filing only for the goods with respect to which the
5 filing provisions of this Act have been complied with.

Discussion:

This is an obviously necessary provision

(a) in order to affect the general purpose of the Act, which requires filing wherever a mortgaged chattel is located; and

(b) in order to keep the mortgage good, so far as that requirement has been met.

The other language is included to cover the case of fixtures falling within Section 48, included in a mortgage covering other goods as well; or of one instrument covering rolling stock, or goods in transit, or future goods, in conjunction with present goods of ordinary character.

Section 50. Single Mortgage Covering Realty and Goods. (New)

Discussion:

This section has, since the numbering of the present draft and commentary, been incorporated into Section 18a.

Duration

Section 51. Duration of Filing and Refiling. (1924, Sec. 32, p. 29; modified to incorporate change noted in comment No. 2 to that section.)

1. The effect of the filing of instruments provided for in this Act shall expire

(a) on discharge (i); or

5 (b) six months after the maturity of the entire obligation secured, and an obligation due on demand shall for purposes of this section be deemed mature (ii); or

(c) three years after due filing (iii).

whichever is prior.

10 2. But the effect of the filing may in all respects (iv) be extended for successive additional periods each not exceeding three years from the date of refiling, by filing in the proper filing office, within sixty days preceding expiration (v), a copy of the original instrument, and filing also a statement signed and acknowledged
15 by the mortgagee showing that the mortgage is in force and the nature and amount (vi) of the obligation still secured.

3. Such copy and statement shall be filed and entered in the same manner as an instrument filed for the first time, and the filing officer shall be entitled to a like fee as upon the original filing.

20 4. But the filing of instruments provided for by Section 46 shall be valid until satisfaction or for a period of fifteen years, subject, however, to extensions as hereinbefore provided (vii).

Discussion:

(i) Expiration on satisfaction is obvious, and the filing of satisfaction is only for the purpose of clearing title.

(ii) The provision invalidating the mortgage six months after the maturity of the obligation secured simplifies the keeping and the searching of the record, and may often make the filing of satisfaction unnecessary. It further incorporates the policy found in many states of requiring a mortgage to be enforced within a reasonable time after maturity. Surely six months is sufficient time for any negotiations.

(iii) This provision makes it unnecessary for any person searching the record to go back more than three years; at the same time that it permits a mortgage to stand unrenewed long enough to prevent renewal from being a burden.

(iv) This language is intended to make it clear that extending the validity of a senior mortgage does not cause it to become inferior to an intervening junior mortgage.

(v) The Committee requests advice from the Conference as to whether refiling should be required to fall within the last sixty days of the validity of the original filing. The chief argument in favor of such requirement relates to a person who already knows of a mortgage, and who is investigating to discover whether it is still in force. On the other hand, cases would be exceedingly rare in which such a requirement could work hardship on any mortgagee. It will be noted, in any event, that refiling operates entirely *de novo*.

The Conditional Sales Act, makes such a requirement as to the time of refiling; here sixty days is substituted for thirty.

(vi) If the maturity is not given expressly, the filing would not be invalid, but the record would be treated as showing an obligation due on demand. Section 17 (3)).

(vii) The special provision regarding rolling stock is normally desirable, in view of the long period over which the financing and reference to such stock extends.

Manner and Form

Section 52. Formal Requisites to Filing. (1924, Sec. 25, p. 23 and Sec. A, p. 24; wholly recast.)

1. No instrument shall be eligible for filing under this Act unless it shall comply with the requirements for validity under Section 15 (i).

5 2. If the instrument does not bear a date, or indicate the maturity of the obligation, or the amount or extent of such obligation, any or all of such facts may be supplied by an endorsement signed and acknowledged (ii) by the mortgagee (iii).

10 3. Where the instrument is one purporting to effect an absolute transfer, it shall not be eligible for filing unless there shall be endorsed upon the instrument a statement in writing, signed by the mortgagee, showing that it was intended as a mortgage (iv).

4. The instrument may in all cases be filed either in the original or by certified copy (v); and any endorsement permitted by this Act may be made upon a paper attached thereto.

Discussion:

The attempt, here and in Sections 12, 15, and 51 (1) (b), etc., has been to provide filing machinery which removes all discretion from the filing officer, and all possible danger of invalidity through slips in form. The

Committee believe such provisions as subsection 2 to work far more smoothly than formal requirements, and with vastly less possibility of injustice. See also Section 17, making certain formalities optional, and Section 59, providing for cure of errors.

(i) See notes to Section 15, which apply in full to this section.

(ii) If the date of maturity is not given in the instrument, and is not so supplied, the obligation is deemed *prima facie* due on demand under Section 51 (1) (b); and as against third parties relying on the record this will be conclusive under Section 58. See Sections 27 and 58, also, for the case where the obligation secured is indicated only partially or not at all.

(iii) *Acknowledgment by mortgagee.* Throughout the Act statements, signed only by the mortgagee *and in his own interest*, are required to be acknowledged by him so as to bring to bear more easily upon him the penalty imposed in Section 60 in the event that his statement is made with fraudulent intent.

In general, the effort is made to require all the papers to be found together. Thus this section provides for all possible additional statements required to be endorsed upon the mortgage. And, in Section 56, it is provided that any supplementary papers shall, when filed, be attached to the copy originally filed.

(iv) See Section 11 and note (ii) therein, which is wholly applicable to this section. Here again provision is made for simple but effective curative action. See also Section 56 (1), for the disposition of such supplementary statement; and Section 56 (3) for filing fees.

Section 53. Filing in Respect to Future Advances. (1924, Sec. B, p. 24; substituting an acknowledged statement for an affidavit.)

1. An instrument may be filed, although it states that the mortgage is given to secure an obligation to be incurred in the future.

2. From time to time as advances may be made or obligation
5 incurred pursuant to such mortgage, there shall be filed a statement in writing signed and acknowledged by the mortgagee indicating the mortgage and stating the date of the advances or obligation made or incurred pursuant thereto.

Discussion:

See Section 27 and the notes thereto. This section provides only the formal materials for carrying Section 27 into effect. See also Section 51 for the duration of the validity of the filing under this section.

Provision is made in Section 56 for proper entry of such supplementary statement, and for its attachment to, and therefore filing with the original instrument.

For the effect of failure to give the *amount* of the new advances, see Section 27, note (ii).

Section 54. Filing of Assignment. (1924, Sec. 36, p. 33; slightly modified.)

1. An instrument assigning the mortgage, signed by the assignor (i), or a statement of such assignment, signed and acknowledged by the assignee (ii), may be filed in the same filing office and in the same manner as an instrument of mortgage; and
5 until so filed shall, subject to Section 35 (4) (iii), be invalid as against any purchaser for value from, or lien creditor of, the assignor who becomes such without notice of the assignment (iv).
2. But the filing of an assignment shall not of itself be notice to the mortgagor so as to invalidate any transaction respecting the
10 mortgage concluded by the mortgagor in good faith, with a person holding the instrument of mortgage or any separate evidence of indebtedness designated in such instrument (v).

Discussion:

This section is intended to provide a convenient means for notifying creditors and possible subsequent purchasers of the assignment and to do away, at least as regards mortgages, with the conflict of opinion as to the rights of successive assignees of a chose in action.

(i) *The Assignor.* This language is used, rather than "the mortgagee" so as to cover successive assignments.

(ii) This alternative provision makes it possible for the assignee to secure immediate protection, whether the assignment is in shape for filing or not. The fraudulent filing of a purported assignment is made criminal under Section 60.

(iii) *Negotiable instrument an exception.* Section 35 (4) makes special provision, as against all parties, for the case of a mortgage securing a negotiable instrument.

(iv) *Effect of filing.* This clause not only protects the *filing* assignee for the future, but subjects the *non-filing* assignee to having his rights divested by a future transfer or levy. This settles an old conflict of authority so far as it applies to mortgages, as to whether the first of two successive assignees to take, or the first to give notice, prevails. It also provides notice to creditors.

(v) *Filing not notice to mortgagor.* This provision is believed to be only fair to the mortgagor in view of the current practice of a mortgagor being content to see payments endorsed upon the document of debt, and in view of the fact that the mortgagors rarely, if ever, have occasion to consult the filing records. The section is limited to cases involving a separate evidence of indebtedness.

Surrender and resale. An especially common case seems to be the surrender of the goods to the original mortgagee after he has assigned the

mortgage, and resale by such mortgagee to a bona fide purchaser. It is believed that the text is broad enough to include such a purchaser of the goods as well as a purchaser of the mortgage.

Assignment of debt. Under Section 35, the assignment of the obligation secured carries with it the mortgage; hence the assignee of a debt could file a statement of assignment of the mortgage, under this section.

Section 55. What Constitutes Filing. (1924, Sec. 29, p. 27; slight additions.)

1. Any instrument or statement shall be deemed filed under this Act when such instrument, complying in form with the requirements of this Act, is received into the possession of an authorized officer of the proper filing district (i).

5 2. And no failure of the filing officer, after he has received possession of the instrument or statement, to perform the duties required of him by this Act shall affect the validity of such filing, except as against a person who has by himself or his agent become a party to suppression or falsification of the record (ii).

Discussion:

Compare Section 1, the definition of *due filing*. The present section is directed at protecting the mortgagee when he has done everything which a reasonable man would do to secure filing. Under this section, any default of the filing officer, or that officer's failure to keep the record in proper shape, while it will prevent third parties from receiving the notice intended by the Act, will, none the less, leave the mortgagee with full protection. This is the existing law. While to some extent incorporation of this rule involves departing from the general policy of the Act to protect third parties fully, save so far as the record or other facts give them notice, yet it is believed that a reasonable protection for the mortgagee requires the substance of the Section. Occasional negligence, mistake, or fraud of filing officers is one of the conditions of life. Its results are here thrown on third parties because any other rule deprives the mortgagee of any assurance of protection at all, and might even invite mortgagors to fraud to keep their apparent credit clear; and because the risks involved are in no way part of the *personal* credit or moral risk which is to be thrown on the mortgagee.

(i) The Committee are of opinion that in the exceedingly rare case in which the default of the filing officer consists in *refusing to receive* the instrument for filing, the mortgagee's remedy should be by mandamus and, in case of need, by action on the filing officer's bond. The case which currently arises is that of negligent indexing or custody of the papers *after* they have been received. This case is covered in favor of the mortgagee.

(ii) The qualification seems necessary in order to prevent deliberate suppression of the record from being effective; the words used are intended to place upon the mortgagee the burden of any fraudulent practices of his agent in relation to the record. The split in authorities as to whether fraud of the agent is effective in favor of third parties against the principal, when the principal is himself being defrauded, makes it desirable to use express language here including the agent, in spite of Section 6a.

Section 56. Record of Filing. (1924, Sec. 31, p. 28; slightly changed.)

1. (a) The filing officer shall mark upon any instrument or paper filed with him under this Act the day and hour of filing.

5 (b) All mortgage instruments or copies filed under Section 51 or Section 52 shall be numbered consecutively, and each shall be marked with its consecutive number, and shall be filed in the filing office for public inspection; and any supplementary or subsequent paper filed under this Act shall be marked with the consecutive number of the instrument or copy to which it refers and shall be attached to such instrument or copy.

10 2. (a) The filing officer shall keep a separate book in which he shall enter the names of the mortgagor and mortgagee, the date, if given, the consecutive number of the instrument, the day and hour of filing, a brief description of the goods, the amount and date of maturity of the obligation secured, if given, and the
15 date of discharge of the mortgage.

(b) On the margin of such entry, the filing officer shall note the date and hour of the filing under this Act of any supplementary or subsequent paper referring to the mortgage, and the nature of such paper, and, in the case of statements filed under
20 Section 53, the amount, date and, if given, the maturity of the advances made or obligation incurred, and, in case of papers filed under Section 54, the name of the assignee.

(c) Such book shall be indexed under the names of both mortgagor and mortgagee, and under the consecutive numbers.

25 3. Where such book fails in any material particular to conform to the instrument or other papers duly filed, either the mortgagor or the mortgagee shall be entitled to have the entries in such book corrected to conform with such instrument or other papers.

30 4. For filing and entering a mortgage instrument, or any other
document, or set of documents filed at one time, as to which special
provision is not made by this Act, the filing officer shall be en-
titled to a fee of . . . cents except where provision is otherwise
made by law, and except that for filing and entering an instrument
described in Section 46 the (Secretary of State) shall be entitled to
35 a fee of The fee for filing an instrument given to secure a
loan not at any time exceeding Three Hundred Dollars shall be ten
cents.

Discussion:

This section follows in general section 10 of the Conditional Sales Act, except that provision is here made in a single section for the filing of the original and of any supplementary papers, and except that on the recommendation of the draftsman of that Act, Dean Bogert, a consecutive numeration is provided for. This consecutive numeration should prove especially useful in keeping supplementary papers available in connection with the mortgage.

Failure of the filing officer to perform the duties herein required does not, under Section 55 (2), invalidate the mortgagee's rights.

The special provision for the filing of mortgages securing small loans of less than Three Hundred Dollars is believed reasonable, in order to prevent the expenses of such loans from mounting too high.

The draftsman sees no reason why the fee for other mortgages should not be seventy-five cents or one dollar.

In subsection 1 (b) the words *mortgage instrument and copy* are used, although the definition of *instrument* in Section 1 and the provision of Section 52 (4) made the language unnecessary. This has been done to simplify the filing officer's discovery of his rights and duties.

Errors in Filing of Documents

Section 57. Filing of Defective Instrument or in Wrong Place.
(1924, Sec. 30 (1), p. 27; so far as not found in present Section 58.)

Where an instrument or mortgagee's supplementary statement is filed in good faith, but is defective in form, or is filed in good faith in an improper filing district or office or in one only of a greater number of filing districts required for particular goods, the
5 filing shall nevertheless be effective with regard to such goods as
against any person who has actual notice of the mortgage.

Discussion:

Here again is an attempt to keep formal defects from invalidating bona fide transactions. That a mortgagee's statement, because not acknowledged, should be invalid as against a person who has seen it, seems absurd. This section expresses what is probably the majority view under the existing case law.

Section 58. Filing of Instrument Containing Error. (1924, Sec. 30 (1), p. 27; more fully developed.)

If any instrument or document is filed in good faith (i), but is erroneous in any material point, the filing shall nevertheless be effective to the extent of the true transaction represented thereby (ii),

- 5 (a) provided, however, that purchasers and lien creditors of either the mortgagor or the mortgagee shall be charged by the record with notice only of facts as to which the instrument and any supplementary papers duly filed would put a person of
10 reasonable diligence on inquiry (iii); nor shall misdescription of the goods (iv), or subsequent change in the nature of the goods with or without fraud of the mortgagor (v), or misdescription of the obligation secured, or misstatement of the name of the mortgagor in a purchase money or other mortgage (vi), affect the operation of this proviso;
- 15 (b) and provided that the state of the filing officer's record at any time shall be deemed *prima facie* to be accurate.

Discussion:

(i) This is intended to put the burden of showing good faith on the person relying on the record, once error in the instrument filed is shown.

(ii) The true transaction is assumed in this clause to be *overstated*: an erroneous statement including too many goods, or too large an obligation. Granted good faith affirmatively shown, there appears no reason for not allowing the mortgage to be good as far as it actually goes. The first proviso takes up the question of *understatement of misstatement*, and limits the effect of filing to those true facts which actually appear in such manner as to put a third party on inquiry.

(iii) The mortgagee has the cure for this in his own hands under Sections 52 (2) and 59. The provision extends the idea of estoppel in favor of parties who are on constructive but not on actual notice of the terms of the mortgage. This is believed to be a necessary provision to carry out the policy of the Act, that record has in general the same effect as the exhibition of the document.

(iv) This section, together with Section 16, makes a distinction between such description as is sufficient between the parties themselves, in the light of the facts of the transaction, and such description as will indicate the goods to an outsider.

(v) This section envisages the problem where wool has been shorn off sheep and removed from the ranch and sold; or where fixtures have been detached and removed and sold; or where some raw material has been worked up into a manufactured article. In such cases hardship is always imposed upon some person—either the purchaser whom the record cannot possibly protect, or the mortgagee who has suffered by the error or fraud of the mortgagor. This has been recognized by statutory provisions in many states, particularly in reference to mortgages of crops, whereby it is provided that the mortgage shall be effective only while the crop is on the land. It is believed that the policy of those statutes is sound and should be extended. It is further believed that the credit risk of making a mortgage must be regarded as imposing on the mortgagee *all responsibility for the honesty of the mortgagor, so far as the record cannot, in fact, be made a fair notice*. The mortgagee is here protected up to the point where his protection begins to work hardship on a wholly innocent person. This accords with the modern view of mercantile policy. Section 26, permitting a mortgage to be valid, although the mortgagee has consented that the goods be sold, is another instance of the same underlying policy to keep goods in commerce. That the policy works here against, and there in favor of the mortgagee, seems immaterial.

The same view of policy underlies Section 45 as to refile on removal.

Reasonable protection to the mortgagee is, it is believed, provided by Section 30 (1), which constitutes such action as to any part of the goods a default; and see Section 48 (1) (c) for further protection to the mortgagee, where the goods are affixed to land without his consent.

Particular cases. The second clause of the text takes up some particular cases in which conflict of authority and divergence of legislative or judicial policy seems to warrant an express provision by the Act.

(vi) This provision might well seem unnecessary were it not for a curious rule, apparently derived from a more than dubious distinction taken in Jones, *Chattel Mortgages* (5th ed.), sec. 247a, that the filing of a purchase money mortgage, but not of any other mortgage, under the fictitious name of a mortgagor, is effective as against third parties. It is hard to discover any policy which applies to exempt a creditor from investigation into the one essential foundation of credit, to wit, the identity of a debtor. In view of the conflict of the authorities and the reliance placed on the passage from Jones by two courts, it seems wise to make express provision for the case. For the authorities, see 34 *Yale Law Journal* 796; to which add *Ingram v. Watson* (Ala. 1924) 100 So. 557.

Section 59. Cure of Improper Filing or Error in Filed Instrument.

(1924, Sec. 30 (2), p. 27.)

1. In any case falling within Section 57, a subsequent and proper filing as required by this Act may be made when accompanied by, a statement signed and acknowledged by the mortgagee, setting out the previous filing, that such filing was in
5 good faith, the defect which the subsequent filing is made to cure, and that the curative statement is being made within thirty days after discovery of such defects; and from the time of such subsequent and proper filing the instrument or supplementary statement shall be deemed duly filed.

10 2. In any case falling within Section 58, the mortgagee may file a statement as described in subsection 1, correcting the error in the erroneous instrument or other paper, and such statement shall operate as notice to all persons of the claims therein set forth.

Discussion:

These curative provisions are not everywhere found, but seem clearly desirable. It seems absurd that an original filing should be ineffective because of formal error, and a subsequent filing ineffective because it is not original.

It will be noted that the mortgagee's curative statement simply gives notice of his claim. It is by no means a unilateral reformation of the instrument, but has something of the effect of filing a *lis pendens*.

A fraudulent statement is criminal, under Section 60.

The *procedure of filing and the fees* are covered by Section 56.

Fraud in Mortgage or Filing

Section 60. Fraud in Mortgage or Filing Criminal. (1924, Sec. C, p. 25; slightly modified.)

The giving or the taking of a mortgage with specific intent to hinder, delay, or defraud creditors, or the filing of an intentionally false statement in purported compliance with the requirements of Sections 51, 52, 53, 54, or 59 of this Act shall constitute a crime,
5 and any person guilty of such crime shall upon conviction thereof be imprisoned (in the County Jail) for not more than (one year) or be fined not more than (Five Hundred Dollars) or both.

Discussion:

See note to Section 31, the only other criminal section of the Act, which fully expresses the policy involved in this Section.

As indicated in the discussion under Section 15, this section is thought to have all the substantial deterrent effect which any affidavit requirement would have, as against fraud; while its operation is not a burden on legitimate business.

PART V

FORECLOSURE AND REDEMPTION

Effect of Default

Section 61. Mortgagee's Rights and Elections on Default. (1924, Sec. 45, p. 38; with an addition.)

1. On default the mortgagee, subject to Section 62, has the following rights (i);

(a) to proceed to foreclosure by notice barring redemption; or

(b) to obtain possession of the goods and foreclose by sale; or

5 (c) to foreclose by suit begun before or after he obtains possession of the goods; or

(d) in substitution for any of the above, at any time, to foreclose by special agreement with the mortgagor.

10 2. The bringing of an action to recover satisfaction of all or any part of the obligation secured shall not bar the mortgagee from later taking possession of the goods as provided in this Act, unless and until any judgment in such action shall have been fully satisfied (ii).

15 3. An action may be maintained by the mortgagee for any deficiency, pursuant to Section 68, although not begun until such deficiency appears (iii); but after taking possession for default the mortgagee may recover from the mortgagor only after a sale (iv).

Discussion:

Only remedies under the mortgage are covered. Recovery of the debt is touched only insofar as legal action looking thereto affects or is affected by action relative to the goods.

(i) This subsection serves only as a general index to the mortgagee's various rights which are defined in the following sections. See Section 68 on deficiency.

Election. The policy of the provisions on election is to prevent the mortgagee from being penalized by any technical election. Therefore:

(ii) Neither the bringing of an action nor the recovery of judgment nor partial collection of the judgment prevents later foreclosure on the mortgage. This is in entire accord with the policy of the Act that the mortgage

is a security for the performance of an obligation. Legal action attempting to secure performance of the obligation in other ways should, therefore, not affect the mortgage. This follows the Conditional Sales Act, sec. 24.

(iii) Similarly, if the mortgage fails to realize the full amount of the obligation, *deficiency proceedings* should be allowed. Under Section 68, such proceedings are allowed only against mortgagors who have made themselves personally responsible for the obligation secured. To permit a subsequent deficiency suit accords with the general view, but will work a modification in those states in which a mortgagee is now limited to a single action. It is not, however, perceived how a mortgagor stands to lose anything by having the mortgagee attempt, first, the relatively inexpensive and informal foreclosure by sale. Where foreclosure is by suit, then, under Section 69, the matter can all be settled up in a single action.

(iv) After the mortgagee has once begun foreclosure by sale, it is felt that the mortgagor is entitled to be free of the expenses of litigation until after sale has been made. This also follows the Conditional Sales Act, sec. 24.

See further, Appendix, item C.

Cure of Default

Section 62. Cure of Default. (1924, Sec. 40, p. 34; recast with reference to Mortgage Act, 1924 Draft, sec. 6.).

1. Except as otherwise provided by Section 63, the mortgagor may at any time until final foreclosure sale or surrender or compromise, (i) tender such sum with interest, or perform such act, as may be due under the mortgage, together with the expenses of taking possession, storing and preparing to sell the goods and of any suit for foreclosure (ii), or, if the amount of such expenses be unknown to the mortgagor, a reasonable sum in provisional settlement thereof (iii); and such tender shall cure the default and reinstate, or as the case may be, discharge the mortgage (iv).
2. Where the principal of a mortgage or any part thereof has become due by reason of an acceleration clause, the default may be cured without tender of the principal so accelerated (v).

Discussion:

(i) No reason appears to close the possibility of curing default as long as the goods are still in the mortgagee's hands; the mortgagee's remedy is under Section 63.

(ii) This clause requires no comment.

(iii) This clause is intended to simplify the mortgagor's procedural problem, without in any way affecting the mortgagee's rights.

(iv) The language is chosen to cover the case, first, of anticipatory default, and, second, of default in ultimate performance. In the latter case the whole obligation secured will be due, and the mortgage discharged on tender.

(v) This section follows the policy of the Uniform Mortgage Act, sec. 6, in a wholly desirable particular. Acceleration is only intended for the mortgagee's security, and to enable him to consolidate all his rights in a single foreclosure. If redemption is to be permitted at all, it must undo such acceleration, or it becomes a mockery. Subsection 2 obviously leaves subsection 1 in full force, requiring for cure of default the tender of any sum due, apart from the accelerated principal.

Notice Barring Redemption

Section 63. Notice Barring Reinstatement or Discharge. (1924, Sec. 39, p. 34; recast.)

1. After default the mortgagee may at his option duly give not less than twenty days' notice to the mortgagor of intention to take possession and bar reinstatement or discharge.

2. Such notice shall state the default, and the intended time of taking possession; and shall state that such taking of possession will bar the mortgagor from redeeming the goods; and that the mortgagor is entitled to cure the default before the taking of possession and thereby to regain his rights under the mortgage; and that the goods, if taken, will be sold under the mortgage unless the mortgagor and mortgagee otherwise agree (i).

3. If after such notice duly given the mortgagor does not cure the default or, as the case may be, discharge the mortgage before the day set, the mortgagee may take possession of the goods and hold them free of redemption, but subject to the provisions of this Act regarding sale (ii).

Discussion:

This follows the policy of the Conditional Sales Act, sec. 17, and is intended to provide a means of foreclosure under which the mortgagee does not incur expense in taking and storing the goods, nor deprive the mortgagor of their perhaps profitable use during the redemption period. This is particularly necessary, where the parties are dealing at a distance, and the taking of possession involves outlay and trouble in transportation of the goods.

(i) In order to prevent any question as to what the content of the notice served shall be, this section has been made as full and simple in language as possible.

(ii) While it is desirable to make possible the barring of redemption in this manner, no reason appears for depriving the mortgagor of the benefit of any equity a sale may bring him. Section 70 is broad enough to permit surrender or compromise in place of sale, if the parties so agree, even after possession taken under the present Section.

Lapse of notice: this Section is not yet adequately correlated with Section 37, as to waiver by inaction after notice given.

Assumption of Possession and Sale.

Section 64. Mortgagee's Right to Possession. (1924, Sec. 38, p. 33; somewhat altered.)

1. On default in satisfying the obligation secured or the last installment thereof, at its original maturity, or on default arising under Sections 30, 32, or 39, the mortgagee may take and retain possession of the goods without legal process, if this can be done
5 without a breach of the peace.

2. On default arising in any other manner, the mortgagee may by legal process take, and thereafter retain, possession of the goods.

Discussion:

Section 30 deals with concealment of the goods, sale under claim of full ownership, and substantial impairment of value by act of the mortgagor; Section 32 with judicial levy on the mortgagor's interest; Section 39 with the imposition of liens against the mortgagee's interest. In these cases immediate action is necessary to preserve the mortgagee's rights.

But in other cases of default, it is believed that immediate right to possession by the mortgagee conduces to hardship on the mortgagor; particularly is this the case in regard to acceleration clauses. To require for *notice to the mortgagor* before possession taken, is to enable him, if fraudulent, to secrete the goods. The present Subsection 2 is therefore suggested, despite its possible effect in piling up costs against a mortgagor, because it is believed likely to discourage a mortgagee from taking possession for intermediate defaults until he has come to some agreement with his mortgagor looking to extension of time, or cure of the default, or peaceable surrender of possession.

Section 65. Redemption Period. (1924, Sec. 40, p. 34, first part; slightly modified, and Sec. 48, p. 39.)

1. Unless the mortgagee proceeds under Section 63, he shall, after obtaining possession, retain the goods for ten days within the

state in which possession was taken (i); or if default consisted in removal of the goods, then at his option within the state of their original location (ii).

2. But if the goods are perishable, the mortgagee may sell them immediately upon taking possession (iii).

3. During the redemption period, the mortgagee in possession shall be vested with the same rights and under the same duties as a vendor of a chattel with a vendor's lien thereon after default by the vendee (iv).

Discussion:

(i) This follows in general Conditional Sales Act, sec. 19.

(ii) This clause is inserted in order to make it possible for a mortgagee, whose goods have been removed without his consent, to return them to the home market for realization.

(iii) This provision is obviously necessary. *Perishable* is sufficiently defined in the cases, in all respects save one: does perishing *value*, because of a panic market, fall within the term? It is believed not. Under Section 46, rolling stock is expressly excluded from the operation of the present section.

(iv) This section is directed primarily at that minority view, which, proceeding upon the basis that a mortgagee in possession after default was practically the full owner of the goods, has put upon him the risk of loss. It seems clear that the modern view of the subject and the whole theory of this Act require the mortgagor to be regarded as the beneficial owner carrying the risk. Throughout, the mortgagee's rights are measured only as rights held for security, and when in possession he should still be dealt with on that basis. It is clear from the other sections of this Act that the mortgagee obtains, under this section, nothing equivalent to a vendor's power to rescind, nor any right to the excess of the proceeds of sale over the amount of the obligation secured. See Sections 66 and 67. See also Section 30 (2) on risk of loss after possession taken.

Section 66. Compulsory Sale. (1924, Sec. 41, p. 35, and Sec. 48, p. 39; as altered to accord with Sales Act, sec. 60.).

1. After the redemption period the mortgagee shall sell the goods in the manner from time to time provided by law for a vendor having a vendor's lien and reselling the goods after default by the vendee (i).

2. But if before expiration of such period the mortgagor shall duly give the mortgagee signed, written notice that he believes the reasonable value of the goods in excess of the obligation secured to be Five Hundred Dollars or more, and that he demands public

- 10 sale, then the mortgagee shall sell the goods by public sale, and shall give at least five days' notice of such sale by publication in a newspaper published or having a general circulation within the filing district where the goods are to be sold (ii). And at such sale the mortgagee may become a purchaser free of the mortgage.

Discussion:

Two possible lines of policy are open in the situation here presented:

Either (a) to provide for strict foreclosure which will extinguish the obligation secured, unless either the mortgagee elects to sell or the mortgagor demands a sale;

or (b) the line of policy adopted in this section.

The draftsman confesses to having no well-grounded views as to which policy is preferable. Where the sums involved are considerable, it may fairly be assumed that both parties will be informed as to their rights, or can get information within the redemption period. Where the amount is inconsiderable, it may well be that to require a sale is to incur useless expense; but it seems fair to assume, in such event, that the mortgagee will be aware of the facts, and at the time of taking possession will approach the mortgagor with a proposal to proceed by agreement under Section 70. Either line of policy therefore promises substantial justice.

(i) It does not appear from the cases that great trouble has developed under the widely discretionary provisions of the Sales Act, sec. 60, with reference to the manner of realizing on goods after default. Such being the case, a similar discretionary provision is here adopted. One matter of statutory construction is involved, which warrants somewhat serious attention. If the Chattel Mortgage Act should be passed in a given state before that state should adopt the Sales Act, would the present Section 66 (1) incorporate the subsequently enacted section 60 of the Sales Act? Certainly it would be undesirable, so far as any discrepancies exist between the manner of resale under the Sales Act and the manner of resale under the common law, to have those discrepancies continue under two uniform acts. It is believed that the words *from time to time* are sufficient to take care of this.

(ii) It seems desirable to give the mortgagor the option of requiring a public sale, if he so desires, under the circumstances here indicated.

Special provision is made in Section 46 for fixing in the instrument the place at which goods there described shall be sold in the event of foreclosure.

Excess and Deficiency on Sale

Section 67. Proceeds of Sale. (1924, Sec. 42, p. 37; substantially unchanged.).

1. The proceeds of any foreclosure sale shall be applied:
 - (a) to the payment of the expenses thereof;

5 (b) to the payment of the expenses of taking possession of the goods and keeping and storing the same, and of any suit for foreclosure or possession;

(c) to the payment of the obligation secured (i).

10 2. If the obligation secured is at the time of such sale contingent or indefinite in amount, the mortgagee may keep provisionally the maximum sum which may possibly become due him under the mortgage (ii).

15 3. Any sum remaining after the satisfaction of such claims shall be paid to the mortgagor at once (iii); and any excess in the sum retained to cover an indefinite or contingent obligation shall be paid to the mortgagor when and to the extent that it may appear to be excessive.

Discussion:

(i) This expresses the existing law in general, at the same time making it perfectly clear that expenses during the process of realizing the security are for account of the mortgagor.

(ii) In view of the fact that contingent and indefinite obligations are sometimes secured by a mortgage, this seems to be necessary.

(iii) Under this section it becomes clear that Section 65 cannot be interpreted to bar the mortgagor's right to the excess of the proceeds over the obligation secured—a right which a vendee after default does *not* have, under the Sales Act.

Section 68. Deficiency on Sale. (1924, Sec. 43, p. 37; rephrased.)

5 If the proceeds of the sale are not sufficient to defray the charges listed in Section 67 (1), the mortgagee may recover from the mortgagor, or from any person who has assumed that obligation of the mortgagor, any deficiency for which the mortgagor has agreed to answer.

Discussion:

This provides at once for a deficiency suit, where necessary, and for exemption of the mortgagor from such a suit, where he assumed no personal responsibility for the obligation secured, as for instance a mortgage given to secure rent due or rent to accrue from a third party. Compare Section 34 (1).

See also Section 69, for the case where the deficiency appears unexpectedly, and Section 61 (2) and (3) on election of remedies.

Other Methods of Foreclosure

Section 69. Foreclosure by Suit. (New)

1. The mortgagee may at his option foreclose by suit, and any sale made in such suit under order of the court shall conclude the rights of the mortgagor (i).

5 2. In any such suit the mortgagee shall be entitled to recover any deficiency due according to Section 68 (ii), and where such deficiency does not appear until judicial sale, shall be entitled to further proceedings to recover the deficiency (iii).

Discussion:

(i) This section is intended to provide a mortgagee who wishes to avoid all question of dispute with his mortgagor as to the propriety of sale, with a means of so doing under judicial sanction.

(ii) This is existing law, and necessary. Recovery of deficiency, under Section 68, is limited to cases where the mortgagor assumed personal responsibility.

(iii) Express provision to this effect is desirable both to save the mortgagee from loss through failure to anticipate the deficiency (if the suit is in a state which now allows one action only), and to save the mortgagor from undue piling up of costs by a second action (in states where a second action is now permissible).

Section 70. Disposal of the Goods by Surrender or Agreement. (1924, Sec. 44, p. 37; made general.)

1. At any time after default the mortgagor and mortgagee may contract in writing for the voluntary surrender of the mortgagee's rights to the goods in satisfaction of the obligation secured, or providing in any other manner for whole or partial liquidation of
5 such obligation otherwise than as provided by this Act.

2. Such a contract, made after default (i), shall, as between the parties, be valid (ii) and displace to that extent the provisions of this Act with reference to foreclosure and redemption (iii); and shall be valid as against creditors of the mortgagor unless proved
10 by clear and convincing evidence to be a fraudulent conveyance; and if the amount realizable on sale is speculative, or the probable expenses of sale are great in proportion to the value of the goods, such facts shall create a presumption that the contract is not a fraudulent conveyance (iv).

Discussion:

Storage and sale, and especially judicial foreclosure proceedings, may be expensive. Particularly is this true in regard to sale when no market is readily available. It should, therefore, be open to the parties to make their own arrangements. On the other hand, it is clear that a mortgage for a nominal sum, with a subsequent surrender, may readily be made an instrumentality of fraudulent conveyance.

(i) The requirement made for default is believed to offer some assurance that the transaction will be limited to one under which it is attempted to avoid undue expense.

(ii) This language is aimed at the rule, still occasionally found, that an accord executory is wholly invalid.

(iii) This might go without saying, but is better expressed, in view of Section 72.

(iv) The presumptions here raised are designed to encourage this form of informal settlement, while leaving the road open to creditors to proceed in cases of palpable preference or fraud.

Section 71. Foreclosure of Mortgage on Realty Including Chattels. (From Uniform Mortgage Act, 1924 Draft, Sec. 8, rephrased.)

Discussion:

This section is found as subsection 1 under Section 18a. The change was made so late that a renumbering was impracticable.

Non-Compliance with this Act

Section 72. Non-Compliance with Foreclosure Provisions. (1924, Sec. 46, p. 38; minor addition.)

5 If the mortgagee, after taking possession of the goods, fails to comply with the provisions of this Part regarding foreclosure, the mortgagor may recover from the mortgagee his actual damages, if any, and, in addition, ten per cent of the amount of the obligation secured by the mortgage; and in the absence of waiver the right of redemption shall not be foreclosed.

Discussion:

This section provides the normal and natural penalty for failure to observe the provisions of the Act. If the mortgagee wishes to be perfectly safe and avoid any questions of interpretation, he may proceed by suit under Section 69. The section is, of course, subject to Section 70 in the event that the parties reach a special agreement.

For discussion of the penalty compare discussion (iii) under Section 33, and discussion (vi) under Section 41.

APPENDIX

SITUATIONS NOT EXPRESSLY COVERED BY THE DRAFT AND WHICH PERHAPS REQUIRE CODIFICATION

The draft has already extended sufficiently so that the Committee feel grave hesitation in incorporating any further sections. Nonetheless, there are a considerable number of points of strict chattel mortgage law in regard to which the authorities are in conflict and which are of real practical importance.

A. *How far is a mortgage affected by unenforceability of the underlying obligation?* The underlying obligation may become unenforceable through the Statute of Limitations; or through bankruptcy of the obligor (whether the mortgagor or not) or, if it is in the form of a negotiable instrument, by innocent alteration or perhaps even unauthorized alteration by a third party. The mortgage instrument itself or a non-negotiable instrument evidencing the debt may be altered without fraudulent intent. There may be a defense to the obligation on grounds of incapacity which is not directly available to a third party mortgaging his goods to secure another man's debt. The underlying obligation may be unenforceable because of the Statute of Frauds or because of usury, gambling, or such special statutes as those covering the purchase of stallions. And take the case of a mortgage to secure past and agreed future advances, which latter the mortgagee then refuses to make. In all of these cases it is a matter of real moment to determine the status of the mortgage.

There is, furthermore, the complication which is at least possible where the mortgage is given for some new consideration such as forbearance to sue upon a note which later turns out to have been void or is given to secure a note which is itself a renewal of a void note.

Clearly all these situations cannot be covered in detail. The question is whether the Act should undertake any expression on the point, in view of the conflicts in the case law.

B. *Payment by a mortgagor of the obligation, when due, with money obtained from another party under agreement to transfer the security to the new lender.* The situation makes particular trouble

when a junior mortgagee has intervened between the giving of the original mortgage and such payment. The draftsman sees no feasible method of covering this situation in the Act although he believes that the point should be cleared up and made uniform.

C. *Election of remedies; action inconsistent with the mortgage.* Section 61 provides for liberal election of remedies without the choice of one remedy barring another. This is not only convenient, but is in accord with the present day belief that remedies are only means to effect rights and should not be subject to technicalities which make them defeat rights. One situation is, however, not there covered—that is the case where the mortgagee attaches the mortgaged goods or levies on them under execution in a suit to realize the debt secured. The cases are in conflict, in such a situation, as to whether this is such action inconsistent with the mortgage as bars any further claim under the mortgage. This situation becomes acute where the attachment is upset by bankruptcy proceedings, if it is then held that the preference under the mortgage is gone. Such is the provision of the Conditional Sales Act, sec. 24, in defense of which see Bogert, *Commentaries on Conditional Sales*, page 180. A valuable collection of cases is found immediately preceding that page.

Your draftsman finds it difficult to endorse such a policy. Undoubtedly a man must suffer to some extent by the acts of his agent, even though that agent be an attorney at law. But it seems to the draftsman harsh in the extreme to deprive a mortgagee of the security for which he has bargained, merely because his attorney hastily, ignorantly, or negligently proceeds to attach instead of to foreclose. This matter, not having as yet been discussed in committee, has not been covered expressly in the present draft one way or the other. It may be suggested that there is no necessary inconsistency between making the attachment bar a conditional vendor's rights, and not making such attachment bar a mortgagee's rights, because a conditional vendor may vest title in his vendee by mere expression of intention so to do; whereas a mortgagee must do further acts to effect a release of his interest. And perhaps the wording of Section 36 is sufficient to prevent mere attachment from operating as such a release.

PROBABLE CHANGES IN THE THIRD DRAFT OF THE CHATTEL MORTGAGE ACT;
• ESPECIALLY THOSE ARISING OUT OF THE DISCUSSION OF THAT
DRAFT BY THE NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS. DETROIT, 1925.

The following suggestions do not include minor changes of wording or the redrafting of sections to bring out more clearly their exact purpose, unless the present wording has proved to be misleading.

Section 13: This section should be considered in conjunction with the tentative approval at the Conference of the substance of the Uniform Trust Receipts Act.

Section 14 (2) (b) will be altered to bring out unambiguously that the mortgagee has his option to proceed under (a) or (b) of this sub-section.

Section 18: This will be omitted as unnecessary.

Section 20, third line: For "shall abrogate any provisions of this Act" read "shall impair the rights of the mortgagor under this Act."

Section 25 (1), (a) and (b) will be subjected to a time limitation, certainly not exceeding five years; and the term "increase" will be defined to be not limited to a single generation, at least in the case of a herd.

There will also be added a special exception for long term mortgages of land and chattel equipment together, as, for instance, in the case of public utilities, and especially where replacement of the chattel equipment is contemplated.

Section 26 (1): The Committee was tentatively instructed by the Conference to require a written consent of the mortgagee, in order to produce the effect described in Section 26 (1). It was understood that this was not intended to exclude cases of estoppel by acts other than writing. And it was understood that the Committee should be at liberty to offer the substance of the section, as printed, as an alternative for further discussion at the next meeting of the Conference.

Section 26 (2): Corresponding to the change in Section 26 (1), Section (2) (a), in the third line, will read "like effect as *written* consent to sell." It was also strongly urged that, for the words "the mortgagee's consent to the placing of the goods," be substituted either "if the mortgagee allows the goods to be placed, etc." or "if the mortgagee permits the mortgagor to be in a position to place the goods in the mortgagor's stock in trade, etc. and they are so placed, then this shall, etc."

Section 26 (3): This section was re-committed. The probability is that it will be split into two parts to take care of these divergent situations: (1) the mortgage of a specific chattel which, if sold at all, is contemplated as the source of limitation of the loan—for example, a farmer's crop; and (2) sale by a merchandiser of part of his mortgaged stock in the course of business.

Section 27 (1): A probable exception will be made of incidental sums expended in keeping up the value of the chattel or the security, such as cattle feed, insurance premiums, etc. For such items it is probable that an extra period will be allowed for retroactive filing.

Section 27 (2): A proviso will probably be added that the mortgagee under contract to advance, is protected in making such advances unless he receives actual notice of the levy.

A provision covering revolving indebtedness will be added. (This point not raised at the Conference.)

Section 30: The problem of the mortgagor's negligence contributing without intention to the destruction or injury of the goods will be taken up more explicitly, but with what result is still uncertain. (This point not raised at the Conference.)

Section 33 (2): The ten per cent provision will be modified in the case of large sums, so as not to become a hardship.

Section 35 (1): This section will be amended to show that assignment of the mortgage apart from the debt is not contemplated. (This matter was not raised at the Conference.)

Section 37 (1), second clause: The words "expressly" will probably be deleted.

Section 37 (2): This section will be made to apply "within thirty days after receiving notice of default." And the last clause will be struck out, so that language will be approximately "this shall constitute waiver of *such past default*." In addition it will be made express that waiver of a default does not postpone the mortgage to junior liens.

Section 38 (2): An exception will be made for a lost instrument.

Section 38 (3): The opening phrase "in any other case" will be struck out and sub-section (3) will appear as the second sub-section.

(The following suggestion was not made at the Conference.) The section will also be amended to make the levy therein provided for reach the debt, up to the extent of the value of the security.

Section 41: (Not reached or discussed at the Conference.) There is little doubt that sub-sections 2 to 4 will be struck out. There is also little doubt that premiums paid by the mortgagee will be made repayable by the mortgagor in the absence of provision to the contrary, and made an additional charge upon the chattels mortgaged.

Subsequent sections of the Act were not reached and discussed at the 1925 meeting.

REPORT
of the
COMMITTEE ON THE UNIFORM ARBITRATION ACT
*To the National Conference of Commissioners on Uniform State
Laws:*

After lengthy deliberation at the last three annual conventions, your Conference at its Annual Meeting in Philadelphia, on Wednesday, July 2, 1924, approved of the Act, that accompanies this report, concerning Arbitration, and making uniform the law with reference thereto, by a vote of twenty-three to six. The following states being in the affirmative: Alabama, California, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, New York, North Dakota, Ohio, Rhode Island, South Dakota, Tennessee, Utah, Vermont, and Wyoming. The six states in the negative were as follows: Connecticut, Massachusetts, Missouri, New Jersey, Pennsylvania, and Porto Rico.

The work of the Committee and the Conference was adopted after thorough consideration and was recommended to the Legislatures of the various States, Territory of Alaska, Territory of Hawaii, and the District of Columbia.

This subject had been referred to this Commission by the American Bar Association, and the action of the Conference was duly submitted to the American Bar Association at its meeting in Philadelphia, on Wednesday, July 9, 1924, in the form of printed copies, which had been distributed to the members in attendance at the meeting; but a point of order was made against its consideration "that inasmuch as the by-laws of the American Bar Association required that reports contemplating legislative action shall be printed and sent thirty days in advance to the members of the association," that it should not be considered. The point of order was sustained by the Chair, but on motion made and duly seconded it was voted that "the report accepting the endorsement be adopted, and that that part of the report having to do with the Uniform Arbitration Act, and the act itself, be re-referred for consideration

to the National Commissioners on Uniform State Laws for consideration by its Executive Committee and by a conference with those interested in the subject to see whether or not they may get together on this important legislation."

Your Committee met in Chicago last February, and it was the unanimous opinion of the Committee that the American Bar Association should be urged to adopt the report of the Committee which came out of its deliberations last Summer and which was passed over simply on the point of order above referred to.

Your Committee feels it should again call attention to the fact that this subject is one on which there are two distinct schools of thought, viz., that which holds that an agreement to arbitrate any controversy may be made before the controversy arises, and that which believes that the agreement to arbitrate should be confined to controversies which have arisen. The line of cleavage is very clear. New York and New Jersey have passed laws which have been held constitutional which permit parties to agree in advance to arbitrate any difficulties that may arise in the future in connection with the contract. Illinois on the other hand limits the agreement to arbitrate to controversies which have arisen.

The activity of the gentlemen who succeeded in getting the arbitration law on the books of New York, New Jersey and Massachusetts, was also responsible for the passage by the United States Congress of a Federal Law which is similar in most respects to the law in New Jersey and New York. It makes valid and enforceable written provisions or agreement for arbitration of disputes arising out of contracts, maritime transactions, or commerce between the States and Territories or with foreign countries, the minimum of which dispute must be three thousand dollars.

The new Federal Act known as Public Statute 401 of the 68th Congress and the New York and New Jersey Acts, make the decision of the arbitrators final in law and fact. Massachusetts, however, permits any question of law, upon the request of all parties, to be referred by the Arbitrators to the Court. In the English law, which seems to be quite successful in operation in England, there are provisions that at any time during the course of an arbitration or at its conclusion, questions of law may be submitted to the Court, for advice or definite determination.

Your Committee feels that the American business man or farmer will not knowingly give up his rights to have the Courts pass on the question of his rights or wrongs. As lawyers, we know that the great strength of the American Republic is in large measure due to the ever present knowledge that every man, rich or poor, can go to the Courts for a redress of any wrongs that grow out of his daily transactions.

Your Committee believes that the changes which have come about in the New York, New Jersey, Massachusetts, and the Federal Law, are the result of well developed propaganda used for the purpose of inducing merchants to make use of arbitration as a simple, inexpensive, and expeditious method of disposing of controversies arising amongst themselves.

But these same propagandists overlook the fact that on our Statute Books for many years, there have been provisions that permitted merchants to arbitrate their disputes, but there has been no disposition to ever avail themselves of the law. For instance, in Massachusetts, there has been an act for over a century which legalized the submission of controversies which have already arisen, but during that long space of time, there has probably not been over one hundred cases ever submitted to arbitration.

Your Committee believes that this condition prevails everywhere throughout the Union. Various merchants' organizations and Chambers of Commerce have, through their campaigns of publicity, urged members to memorialize Congress and the various State Legislatures to enact a law permitting the arbitration of future disputes, but all seem to have overlooked the fact that arbitration has always been available for them for arbitration of present or past disputes. It is most certain that not a single organization contains a single member who ever availed himself of the arbitration laws which prevail in his own state.

They all seem to be under the impression that if they can get an Arbitration law for future disputes, that there will be no more troubles. We wish to call attention to the fact that arbitration is not a panacea for the evils of delayed litigation.

Merchants who insert an arbitration clause in their contracts have not the gift of foresight to divine the kind of controversies

that may arise under it, nor can they choose in advance of the real dispute which may arise, the best way of settling it. It is a far cry to claim that arbitrators are the wisest and the most just. As a rule, they have less experience and less skill than Judges when it comes down to the investigation of controversies, and ascertaining the truth. They are subject to no rules and no supervision or control on the part of a superior body, and they surely may be counted upon to become reckless of the rights of those who are before them.

We submit that no law should be passed which permits any one to thoughtlessly sign away his rights.

Justice Stone of the United States Supreme Court, addressing himself to this subject, has well said, "Legal controversies arise out of disputed questions of fact or of the law applicable to the facts, or both. The controversy of fact may be involved and intricate; the law applicable to it may be difficult to ascertain and doubtful. For the investigation and solution of such controversies we have a system of law and courts which are the product of some six centuries of experience. While no one, and least of all I, will make any claim of perfection for our judicial system, nevertheless I do assert that no better system has been devised for the settlement of controversies involving complicated facts or difficult points of law. To say that such cases can be or will be better dealt with by untrained arbitrators who have had no experience in the examination of witnesses and in analyzing and sifting facts and who are not subject to any kind of judicial control or review, is to ignore the teachings of experience and expert knowledge. Moreover such assertion disregards the actual experience in dealing with complicated or difficult litigation by arbitration."

It has been well said that the plea for arbitration really amounts to a plea to business men to submit their disputes to arbitration rather than to a Court of law. This plea necessarily carries the implication of serious defects in our Judicial system—at least in so far as the settlement of commercial disputes may be concerned.

This suggestion is insidious and dangerous and should not be allowed to pass unchallenged. If the technicalities of law and the rules of evidence have delayed justice, it would seem as though the intelligence of law associations and law making bodies in this country, can find remedies so that the Courts of Justice may con-

tinue to function and such temporary inconveniences be overcome rather than to tear down the whole system and substitute for it, a method that can give no assurance that it is in any respect better than that which is condemned.

Your Committee believes that there are serious defects in the present arbitration laws now on the books of New York, New Jersey and by the Federal Act.

It may not infrequently happen that the incidental remedies of attachment, injunction, receivership, and arrest may be vital to the protection of the plaintiff's interests. Under the law of New York and New Jersey as it exists at the present time, there is no way in which the plaintiff can avail himself of these remedies without losing his right to compel arbitration.

Your Committee again reiterates its belief that in the greater majority of States, the law proposed by your Conference will be the more acceptable.

Respectfully submitted,

JOSEPH F. O'CONNELL, *Chairman*

JEFFERSON B. CHANDLER

HENRY U. SIMS

JESSE A. MILLER

JAMES M. TUNNELL

MURRAY M. SHOEMAKER

AN ACT CONCERNING ARBITRATION, TO MAKE
UNIFORM THE LAW WITH REFER-
ENCE THERETO*

Be it enacted.

- 1 SECTION 1. Two or more parties may agree in writing to
- 2 submit to arbitration, in conformity with the provisions of
- 3 this act, any controversy existing between them at the time of
- 4 the agreement to submit. Such an agreement shall be valid
- 5 and enforceable, and neither party shall have the power to re-
- 6 voke the submission without the consent of the other party or
- 7 parties to the submission save upon such grounds as exist in
- 8 law or equity for the rescission or revocation of any contract.

*The Act in this form was approved by the Conference in 1924 and 1925.

1 SECTION 2. The arbitration agreement must state the ques-
2 tion or questions in controversy with sufficient definiteness to
3 present one or more issues or questions upon which an award
4 may be based.

1 SECTION 3. The term "court" when used in this act means
2 a court having jurisdiction of the parties and of the subject
3 matter.

1 SECTION 4. Upon the application in writing of any party to
2 the arbitration agreement and upon notice to the other parties
3 thereto, the court shall appoint an arbitrator or arbitrators in
4 any of the following cases:

5 (a) When the arbitration agreement does not prescribe a
6 method for the appointment of arbitrators, in which case the
7 arbitration shall be by three arbitrators.

8 (b) When the arbitration agreement does prescribe a method
9 for the appointment of arbitrators, and the arbitrators, or any
10 of them, have not been appointed and the time within which
11 they should have been appointed has expired.

12 (c) When any arbitrator fails or is otherwise unable to act,
13 and his successor has not been appointed in the manner in
14 which he was appointed.

15 Arbitrators appointed by the court shall have the same
16 power as though their appointment had been made in ac-
17 cordance with the agreement to arbitrate.

1 SECTION 5. Any application made under authority of this
2 act shall be made in writing and heard in a summary way in
3 the manner and upon the notice provided by law or rules of
4 court for the making and hearing of motions [or petitions],
5 except as otherwise herein expressly provided.

1 SECTION 6. The arbitrators shall appoint a time and place
2 for the hearing, and notify the parties thereof, and may ad-
3 journ the hearing from time to time as may be necessary, and,
4 on application of either party, and for good cause may, post-
5 pone the hearing to a time not extending beyond the date fixed
6 for making the award.

1 SECTION 7. If any party neglects to appear before the arbi-
2 trators after reasonable notice the arbitrators may neverthe-

3 less proceed to hear and determine the controversy upon the
4 evidence which is produced before them.

1 SECTION 8. If the time within which the award shall be
2 made is not fixed in the arbitration agreement, the award must
3 be made within sixty days from the time of the appointment
4 of the arbitrators, and an award made after the lapse of sixty
5 days shall have no legal effect unless the parties extend the
6 time in which said award may be made, which extension or
7 ratification shall be in writing.

1 SECTION 9. No one other than a party to said arbitration,
2 or a person regularly employed by such party for other pur-
3 poses, or a practicing attorney-at-law, shall be permitted by
4 the arbitrator or arbitrators to represent before him or them
5 any party to the arbitration.

1 SECTION 10. The arbitrator or arbitrators, or a majority of
2 them may require any person to attend before him or them as
3 a witness, and to bring with him any book or writing or other
4 evidence.

5 The fees for such attendance shall be the same as the fees of
6 witnesses in courts of general jurisdiction.

7 Summons [subpoena] shall issue in the name of the arbi-
8 trator or arbitrators, or a majority of them, and shall be signed
9 by the arbitrator or arbitrators, or a majority of them, and
10 shall be directed to the person and shall be served in the same
11 manner as summons [subpoena] to testify before a court of
12 records in this State; if any person so summoned to testify
13 shall refuse or neglect to obey such summons [subpoena], upon
14 petition the court may compel the attendance of such person
15 before the said arbitrator or arbitrators, or punish said person
16 for contempt in the same manner now provided for the at-
17 tendance of witnesses or the punishment of them in the courts
18 of this State.

1 SECTION 11. Depositions may be taken with or without a
2 commission in the same manner and for the same reasons as
3 provided by law for the taking of depositions in suits pending
4 in the courts of record in this State.

1 SECTION 12. At any time before final determination of the
2 arbitration the court may upon application of a party to the
3 submission make such order or decree or take such proceeding
4 as it may deem necessary for the preservation of the property
5 or for securing satisfaction of the award.

1 SECTION 13. The arbitrators may, on their own motion,
2 and shall by request of a party to the arbitration,

3 (a) At any stage of the proceedings submit any question of
4 law arising in the course of the hearing for the opinion of the
5 Court, stating the facts upon which the question arises, and
6 such opinion when given shall bind the arbitrators in the mak-
7 ing of their award;

8 (b) State their final award in the form of a conclusion of
9 fact for the opinion of the court on the questions of law arising
10 on the hearing.

1 SECTION 14. The award of the arbitrators, or of a majority
2 of them, shall be drawn up in writing and signed by the arbi-
3 trators or a majority of them; the award shall definitely deal
4 with all matters of difference in the submission requiring
5 settlement, but the arbitrators may, in their discretion, first
6 make a partial award which shall be enforceable in the same
7 manner as the final award; upon the making of an award, the
8 arbitrators shall deliver a true copy thereof to each of the
9 parties thereto, or their attorneys, without delay.

1 SECTION 15. At any time within three months after the
2 award is made, unless the parties shall extend the time in
3 writing, any party to the arbitration may apply to the court
4 for an order confirming the award, and the court shall grant
5 such an order unless the award is vacated, modified, or cor-
6 rected, as provided in the next two sections. Notice in writing
7 of the motion must be served upon the adverse party, or his
8 attorney, five days before the hearing thereof.

1 SECTION 16. In any of the following cases the court shall
2 after notice and hearing make an order vacating the award,
3 upon the application of any party to the arbitration:

4 (a) Where the award was procured by corruption, fraud or
5 other undue means.

6 (b) Where there was evident partiality or corruption in the
7 arbitrators, or either of them.

8 (c) Where the arbitrators were guilty of misconduct, in
9 refusing to postpone the hearing, upon sufficient cause shown,
10 or in refusing to hear evidence, pertinent and material to the
11 controversy; or of any other misbehavior, by which the rights
12 of any party have been prejudiced.

13 (d) Where the arbitrators exceeded their powers, or so imper-
14 fectly executed them that a mutual, final, and definite award,
15 upon the subject matter submitted was not made.

16 Where an award is vacated and the time, within which the
17 agreement required the award to be made, has not expired,
18 the court may, in its discretion, direct a rehearing by the arbi-
19 trators.

1 SECTION 17. In any of the following cases, the court shall
2 after notice and hearing make an order modifying or correcting
3 the award, upon the application of any party to the arbitra-
4 tion:

5 (a) Where there was an evident miscalculation of figures, or
6 an evident mistake in the description of any person, thing or
7 property, referred to in the award.

8 (b) Where the arbitrators have awarded upon a matter not
9 submitted to them.

10 (c) Where the award is imperfect in a matter of form, not
11 affecting the merits of the controversy.

12 The order must modify and correct the award, so as to effect
13 the intent thereof.

1 SECTION 18. Notice of a motion to vacate, modify or cor-
2 rect an award shall be served upon the adverse party, or his
3 attorney, within three months after an award is filed or de-
4 livered, as prescribed by law for service of notice of a motion
5 in an action. For the purposes of the motion any judge who
6 might make an order to stay the proceedings, in an action
7 brought in the same court, may make an order to be served
8 with the notice of motion, staying the proceedings of the ad-
9 verse party to enforce the award.

1 SECTION 19. Upon the granting of an order, confirming,

2 modifying, correcting or vacating an award, judgment or
3 decree shall be entered in conformity therewith.

1 SECTION 20. The party moving for an order confirming,
2 modifying, correcting or vacating an award, shall at the time
3 such motion is filed with the clerk, file, unless the same have
4 theretofore been filed, the following papers with the clerk:

5 (a) The written contract or a verified copy thereof contain-
6 ing the agreement for the submission; the selection or appoint-
7 ment of the arbitrator or arbitrators, and each written exten-
8 sion of the time, if any, within which to make the award.

9 (b) The award.

10 (c) Every notice, affidavit and other paper used upon an
11 application to confirm, modify, correct or vacate the award,
12 and each order made upon such an application.

13 The judgment or decree shall be entered [or docketed] as if
14 it were rendered in an action.

1 SECTION 21. The judgment or decree so entered [or dock-
2 eted] shall have the same force and effect, in all respects, as,
3 and be subject to all the provisions of law relating to, a judg-
4 ment or decree; and it may be enforced, as if it had been
5 rendered in the court in which it is entered.

1 SECTION 22. An appeal [or writ of error] may be taken from
2 the final judgment or decree entered by the court.

1 SECTION 23. [Uniformity of interpretation]. This act
2 shall be so interpreted and construed as to effectuate its gen-
3 eral purpose to make uniform the law of those states, which
4 enact it.

1 SECTION 24. [Short title-name of Act]. This act may be
2 cited as the Uniform Arbitration Act.

1 SECTION 25. [Inconsistent laws repealed]. All acts or parts
2 of acts inconsistent with this act are hereby repealed.

1 SECTION 26. [Time of taking effect]. This act shall take
2 effect on [].

REPORT OF COMMITTEE ON A UNIFORM ACT
GOVERNING THE USE OF HIGHWAYS
BY VEHICLES

PREFACE

The accompanying tentative draft of a Uniform Motor Vehicle Act is the result of the work of the Chairman of this Committee, Mr. Newlin, and the draftsman, J. Allen Davis of Los Angeles, who sent out questionnaires and who have analyzed such questionnaires and the statutes of the various states and submitted a draft to the Committee at a meeting in New York. After the draft had been rewritten in accordance with the changes made by the Committee, it was submitted to the Committee on Uniform Laws and Regulations of the National Conference on Street and Highway Safety called under the auspices of the U. S. Department of Commerce at a meeting held in Washington in May and was later submitted to a sub-committee of that Committee which met at Atlantic City in July. The Committee of the Hoover Conference consisted of lawyers, some of whom are Commissioners and of representatives of various organizations representing automobile associations, motor vehicle manufacturers, state automobile administrators, traffic officers as well as representatives of the Federal Road Department and the Bureau of Standards.

This draft herewith submitted contains the results of the conferences and suggestions of all these committees and interests. The annotations to the Act were prepared by Mr. Davis and may not be entirely correct as measured by the present laws as some of the statutes passed in 1925 were not available to him at the time the annotations were prepared.

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Tentative Draft of a
UNIFORM VEHICLE ACT*

Title of Act

An Act relating to vehicles as herein defined and regulating the use thereof upon public highways and elsewhere; providing for the registration, identification and equipment of certain vehicles; providing for the examination and licensing of persons operating motor vehicles; prohibiting the possession or use of or injury to certain vehicles without the consent of the owner thereof; providing for the arrest of and penalties to be imposed upon persons violating the provisions of this act; limiting the power of local authorities to enact or enforce ordinances, rules or regulations in regard to matters embraced within the provisions of this act; providing for the disposition of fines and forfeitures collected hereunder; providing for the organization, powers and duties of a department of motor vehicles; providing for carrying out the objects of this act and to make appropriations therefor; providing for the time this act shall go into effect, and repealing all acts or parts of acts in conflict with this act.

Be it enacted . . .

TITLE I
DEFINITION OF TERMS

1 SECTION 1. The following words and phrases when used in this
2 act shall for the purpose of this act have the meanings respectively
3 ascribed to them in the next succeeding sections, except in those
4 instances where the context clearly indicates a different meaning.

1 SECTION 2. "Vehicle." Every device in, upon or by which any
2 person or property is or may be transported or drawn upon a

Note—The precise enacting clause will vary in the several states.

Note to Sec. 2.

The term "vehicle" as defined includes all motor vehicles, tractors, trailers, semi-trailers, bicycles and all vehicles drawn by animal power. The term "vehicle" is used in those sections of the act declaring the rules of the road, also in those provisions regulating weight and size of vehicles which logically should apply to all devices above mentioned when used upon the public highways.

*The Act has been revised to show the changes made at Detroit, August, 1925.

3 public highway, excepting devices moved by human power or
4 used exclusively upon stationary rails or tracks; provided, that
5 for the purposes of Title VII of this act, a bicycle or a ridden
6 animal shall be deemed a vehicle.

1 SECTION 3. "Motor Vehicle." Every vehicle, as herein defined,
2 which is self-propelled.

1 SECTION 4. "Motorcycle." Every motor vehicle designed to
2 travel on not more than three wheels in contact with the ground,
3 except any such vehicle as may be included within the term
4 "tractor" as herein defined.

1 SECTION 5. "Tractor Truck." Every motor vehicle designed
2 and used primarily for drawing other vehicles and not so con-
3 structed as to carry a load other than a part of the weight of the
4 vehicle and load so drawn.

1 SECTION 6. "Farm Tractor." Every motor vehicle designed
2 and used primarily as a farm implement for drawing plows, mow-
3 ing machines and other implements of husbandry.

1 SECTION 7. "Road Tractor." Every motor vehicle designed
2 and used for drawing other vehicles and not so constructed as to
3 carry any load thereon either independently or any part of the
4 weight of a vehicle or load so drawn.

1 SECTION 8. "Trailer." Every vehicle without motive power
2 designed for carrying property or passengers wholly on its own
3 structure and for being drawn by a motor vehicle.

Note to Sec. 3.

The term "Motor Vehicle" is used in those sections of the act requiring the registration of particular devices. The term should and as defined does include automobiles, auto stages, motor busses, motorcycles and trucks, but does not include vehicles drawn by animals, which are not subject to the registration provisions.

Note to Sec. 4.

Motorcycles are subject to particular provisions relating to display of plates, lights, etc. The term as defined includes ordinary two wheeled motorcycles, motorcycles with side car or motor tricycle, but excludes any three wheeled motor vehicle which might in reality be a three-wheeled tractor or other device for hauling other vehicles.

Note to Sec. 6.

Farm tractors are exempt from registration under Sec. 201.

1 SECTION 9. "Semi-trailer." Every vehicle of the trailer type
2 so designed and used in conjunction with a motor vehicle that
3 some part of its own weight and that of its own load rests upon or
4 is carried by another vehicle.

1 SECTION 10. "Specially constructed vehicle." Any vehicle
2 which shall not have been originally constructed under a dis-
3 tinctive name, make, model or type by a generally recognized
4 manufacturer of vehicles.

1 SECTION 11. "Essential parts." All integral parts and body
2 parts, the removal, alteration or substitution of which will tend
3 to conceal the identity or substantially alter the appearance of
4 the vehicle.

1 SECTION 12. "Reconstructed vehicle." Any vehicle which shall
2 have been assembled or constructed largely by means of essential
3 parts, new or used, derived from other vehicles or makes of
4 vehicles of various names, models and types, or which, if originally
5 otherwise constructed, shall have been materially altered by the
6 removal of essential parts or by the addition or substitution of
7 essential parts, new or used, derived from other vehicles or makes
8 of vehicles.

1 SECTION 13. "Foreign vehicle." Every motor vehicle, trailer or
2 semi-trailer which shall be brought into this state otherwise than
3 in the ordinary course of business by or through a manufacturer
4 or dealer and which has not been registered in this state.

1 SECTION 14. "Pneumatic tires." All tires inflated with com-
2 pressed air.

1 SECTION 15. "Solid Rubber Tire." Every tire made of rubber
2 other than a pneumatic tire.

1 SECTION 16. "Metal Tires." All tires the surface of which in
2 contact with the highway is wholly or partly of metal or other
3 hard, non-resilient material.

1 SECTION 17. "Person." Every natural person, firm, copartner-
2 ship, association or corporation.

1 SECTION 18. "Owner." A person who holds the legal title of a
2 vehicle or in the event a vehicle is the subject of an agreement for
3 the conditional sale or lease thereof with the right of purchase

4 upon performance of the conditions stated in the agreement and
5 with an immediate right of possession vested in the conditional
6 vendee or lessee, or in the event a mortgagor of a vehicle is entitled
7 to possession then such conditional vendee or lessee or mortgagor
8 shall be deemed the owner for the purpose of this act.

1 SECTION 19. "Operator." Every person who is in actual
2 physical control of a motor vehicle upon a highway other than a
3 chauffeur.

1 SECTION 20. "Chauffeur." Every person who is engaged in
2 the occupation of driving a motor vehicle for compensation and
3 every person who drives a motor vehicle while in use as a public
4 or common carrier of persons or property.

1 SECTION 21. "Non-resident." Every person who is not a
2 resident of this state.

1 SECTION 22. "Manufacturer" or "dealer." Every person en-
2 gaged in the business of manufacturing, buying, selling or exchang-
3 ing motor vehicles in this state and having an established place of
4 business in this state where the ordinary or appropriate books and
5 records of such manufacturer or dealer are kept and at which a
6 substantial share of the business of such manufacturer or dealer
7 is transacted.

1 SECTION 23. "Highway." Every way or place of whatever
2 nature open to the use of the public for purposes of vehicular travel.

1 SECTION 24. "Private road or driveway." Every road or drive-
2 way not open to the use of the public for purposes of vehicular
3 travel.

1 SECTION 25. "Intersection." The area embraced within the
2 prolongation of the lateral curb lines or, if none, then the lateral

Note to Sec. 19.

The term "Operator" is used in those sections requiring drivers' licenses, and, therefore, is so defined as not to include drivers of vehicles drawn by animals, who are not intended to be subject to the license requirements.

Note to Sec. 22.

"Manufacturers and dealers" are herein specifically defined collectively, as they are allowed to operate their motor vehicles used exclusively in their business under license plates which may be transferred from one vehicle to another.

3 boundary lines of two or more highways which join one another
4 at an angle, whether or not one such highway crosses the other.

1 SECTION 26. "Safety Zone." The area or space officially set
2 aside within a highway for the exclusive use of pedestrians and
3 which is so plainly marked or indicated by proper signs as to be
4 plainly visible at all times while set apart as a safety zone.

1 SECTION 27. "Right of Way." The privilege of the immediate
2 use of the highway.

1 SECTION 28. "Business district." The territory contiguous to a
2 highway when fifty percent or more of the frontage thereon for a
3 distance of three hundred feet or more is occupied by buildings
4 in use for business.

1 SECTION 29. "Residence district." The territory contiguous to
2 a highway not comprising a business district when the frontage
3 on such highway for a distance of three hundred feet or more is
4 mainly occupied by dwellings or by dwellings and buildings in
5 use for business.

1 SECTION 30. "Department." The vehicle department of this
2 state acting directly or through its duly authorized officers and
3 agents.

1 SECTION 31. "Commissioner." The Vehicle Commissioner of
2 this state.

1 SECTION 32. "Local authorities." Every county, municipal
2 and other local board or body having authority to adopt local
3 police regulations under the constitution and laws of this state.

TITLE II

VEHICLE COMMISSIONER

1 SECTION 100. **Vehicle Commissioner.**

2 There is hereby created the office of Vehicle Commissioner, the
3 holder of the office to be in charge of the Vehicle Department of
4 this state and to be appointed by ().

ALTERNATE PROVISION

1 SECTION 100. () **to Perform Duties of Vehicle Commissioner.**

2 The (insert state authority having charge of the regulation of
3 vehicles) is hereby designated as the Vehicle Commissioner of this

state; and he shall have all powers and perform such duties as are herein imposed upon the Vehicle Commissioner.

SECTION 101. Duties of Department and Vehicle Commissioner.

(a) It shall be the duty of the Department and all officers thereof to observe and enforce the provisions of this act.

(b) The Vehicle Commissioner is hereby authorized to adopt and enforce such administrative rules and regulations and to appoint such agencies as may be necessary to carry out the provisions of this act. He shall also provide suitable forms for applications, certificates of title and registration cards, license number plates, operator's and chauffeur's licenses and all other forms requisite for the purposes of this act, and shall prepay all transportation charges thereon.

SECTION 102. Offices of Department.

The Vehicle Commissioner shall maintain an office in (the state capital) and in such other places in the state as he shall deem necessary properly to carry out the provisions of this act.

Note to Sec. 100.

The Conference on Street and Highway Safety has recommended the creation of a separate department in each state to register vehicles and enforce the Vehicle Act.

At present the Secretary of State performs the duties of vehicle registrar in Ariz., Colo., Del., Ga., Idaho, Ill., Ind., Ia., Kan., La., Mich., Minn., Nebr., Nev., Ohio, Ore., S. Dak., Utah, Vt., Wis., Wyo.

The office of commissioner or registrar of motor vehicles has been created in Calif., Conn., Md., Mass., N. H., N. Y., N. Dak., Va., Wash.

The Department of Public Works, State Highway Commission or an officer thereof registers vehicles and enforces the motor vehicle laws in Ark., Me., Nebr., Okla., Penn., R. I., S. C., Tenn., Tex., W. Va.

The remaining states designate the following boards or officers; Ala., State Tax Comm., Dist. of Columbia, Board of Commissioners (Director of Traffic); Fla., State Comptroller; Ky., State Tax Comm.; Miss., State Auditor; Mont., Warden of State Penitentiary; N. J., Asst. Secy. of State; N. Mex., State Comptroller; N. Car., Commissioner of Revenue.

Note to Sec. 101.

Motor Vehicle Statutes quite generally authorize the Registrar to adopt and enforce rules and regulations and to appoint such assistants and agencies throughout the state as may be necessary to carry out registration and licensing provisions.

1 **SECTION 103. Records of Department.**

2 All registration and license records in the offices of the Depart-
3 ment shall be public records and open to inspection by the public
4 during business hours.

1 **SECTION 104. Posting of Records.**

2 The Department, as often as practicable but at least once each
3 month, shall either publish or post upon public bulletin boards in
4 each of its offices a record of stolen vehicles and of suspensions
5 and revocations of operators' and chauffeurs' licenses and shall
6 furnish copies of such records to the Police Departments and
7 Sheriffs' offices throughout the state.

1 **SECTION 105. Appointment of local officers.**

2 The Vehicle Commissioner is hereby authorized to appoint
3 sheriffs, chiefs of police, town marshals or other persons within
4 this state as officers of the Department for the purpose of examin-
5 ing applicants for operator's and chauffeur's licenses. It shall be
6 the duty of any such sheriff, chief of police, town marshal or other
7 person so appointed to conduct examinations of applicants for
8 operator's and chauffeur's licenses under the provisions of this act
9 and to make written report of findings and recommendations upon
10 such examinations to the Department.

1 **SECTION 106. Accident Statistics.**

2 (a) The Department shall prepare and supply to police and
3 sheriffs' offices and other suitable agencies forms for accident
4 reports calling for sufficiently detailed information to disclose with
5 reference to a highway accident, the cause, conditions then exist-
6 ing and the persons and vehicles involved.

7 (b) The Department shall receive accident reports required to
8 be made under this act and shall tabulate and analyze such reports
9 and publish annually or at more frequent intervals statistical in-
10 formation based thereon as to the number, cause and location of
11 highway accidents.

Note to Sec. 103-104.

Vehicle statutes in 19 states contain substantially similar provisions.

Note to Sec. 106.

The Department of Motor Vehicles is required or authorized to investigate accidents and compile statistics based thereon in La., Mass., R. I., Vt. The Conference on Street and Highway Safety emphasized the need for this service.

TITLE III

REGISTRATION AND CERTIFICATES OF TITLE OF MOTOR VEHICLES, TRAILERS AND SEMI-TRAILERS

1 **SECTION 200. Owner to Secure Registration and Certificate of**
2 **Title.**

3 (a) Every owner of a motor vehicle, trailer or semi-trailer
4 intended to be operated upon any highway in this state shall before
5 the same is so operated apply to the Department for and obtain
6 the registration thereof and a certificate of title therefor, except
7 as otherwise provided in this section and except the owner of any
8 vehicle which is exempted by Section 201 and excepting also
9 when an owner is permitted to operate a vehicle under the regis-
10 tration provisions relating to manufacturers, dealers and non-
11 residents contained in Sections 211 and 213 of this act.

1 (b) The Department may make and enforce regulations provid-
2 ing that upon proper application for a certificate of title and
3 the registration of a vehicle either new or after a transfer such
4 vehicle may be operated upon the highways under a temporary
5 permit issued by the Department or a duplicate application carried
6 in the vehicle or when purchased from a dealer then under dealers'
7 plates issued under Section 211 of this Act pending the granting
8 or refusal of complete registration, issuance of certificate of title
9 and receipt of registration number plates.

1 **SECTION 201. Exempt from Registration.**

2 Farm tractors, road rollers and road machinery temporarily
3 operated or moved upon the highways need not be registered under
4 this act.

Note to Sec. 200.

Every state and the District of Columbia requires the registration of motor vehicles including motorcycles, the majority specifying also trailers and semi-trailers. Application for certificate of title must be made in Ala., Ariz., Calif., Del., Fla., Ind., Me., Md., Mich., Mo., Mont., N. Car., Penn., S. Car., S. Dak., Utah and Va. Possibly additional states require application for certificate of title by statutes of 1925 which are not in every instance available at date this note is written. Many states now provide for issuing temporary permits pending complete registration or operation of new vehicle under dealers plates for limited period. States so providing include Colo., Conn., Fla., Idaho, Ill., Ind. Ia., Kan., La., Me., Mass., Mo., N. H., N. Y., Utah, Vt., and Wyo.

1 **SECTION 202. Application for registration and Certificate of Title.**

2 (a) An owner shall make application upon the appropriate
3 forms furnished by the Department for registration, also for a
4 certificate of title except upon annual renewal by an owner in
5 possession of a certificate of title previously issued to him for such
6 vehicle no application need be made for a renewal of such certi-
7 ficate of title. The owner shall verify every application for a certi-
8 ficate of title before a person authorized to administer oaths, and
9 officers and employees of the Department are hereby authorized
10 to administer oaths and it is their duty to do so without fee for
11 the purpose of this act.

12 (b) Every application for a certificate of title shall contain a
13 statement of the applicant's title and of all liens or encumbrances
14 upon said vehicle and the names and addresses of all persons hav-
15 ing any interest therein and the nature of every such interest.

16 (c) Every application for registration or for a certificate of title
17 shall contain a brief description of the vehicle to be registered,
18 including the name of the maker, the engine or serial number and
19 upon the registration of a new vehicle the date of sale by the
20 manufacturer or dealer to the person first operating such vehicle.
21 The application shall contain such other information as may be
22 required by the Department.

23 (d) In the event that the vehicle for which the registration or
24 a certificate of title is applied is a specially constructed, recon-
25 structed or foreign vehicle, such fact shall be stated in the applica-
26 tion, and with reference to every foreign vehicle which has been
27 registered theretofore outside of this state, the owner shall exhibit
28 to the Department the certificate of title and registration card or
29 other evidence of such former registration as may be in the ap-
30 plicant's possession or control or such other evidence as will
31 satisfy the Department that the applicant is the lawful owner or
32 possessor of the vehicle.

Note to Sec. 202.

Every state requires that substantially the detailed description of the vehicle set forth in this section shall be included in the application for registration and every state providing for certificates of title requires a statement as to liens and encumbrances on the vehicles.

1 **SECTION 203. Register of Applicants to be Kept by Department.**

2 The Department shall file each application received, and when
3 satisfied as to the genuineness and regularity thereof, and that the
4 applicant is entitled thereto shall register the vehicle therein de-
5 scribed and the owner thereof in suitable books or on index cards
6 as follows:

7 (1) Under a distinctive registration number assigned to the
8 vehicle and to the owner thereof hereinafter referred to as the
9 registration number;

10 (2) Alphabetically under the name of the owner;

11 (3) Numerically and alphabetically under the engine and serial
12 number and name of the vehicle.

1 **SECTION 204. Registration Cards and Certificates of Title.**

2 (a) The Department upon registering a vehicle and receiving
3 an application for a certificate of title therefor shall issue to the
4 owner a registration card and a certificate of title therefor as
5 separate documents. An owner upon receiving a registration card
6 shall sign the usual signature or name of such owner with penland
7 ink in the space provided upon the face of such card.

8 (b) The registration card and the certificate of title shall each
9 contain upon the face thereof the date issued, the registration
10 number assigned to the owner and to the vehicle, the name and
11 address of the owner, also a description of the registered vehicle,
12 including with reference to every new vehicle hereafter sold in
13 this state, the date of sale by the manufacturer or dealer to the
14 person first operating such vehicle and such other statement of
15 facts as may be determined by the Department.

Note to Sec. 203.

In numerous states registration records are indexed in two or three ways. The Method above required is intended to afford quick information under the following circumstances; (1) Police authorities, having secured license number only of a vehicle involved in an accident or violation of law, wire the number to the Department, and immediately secure complete registration data: (2) Police authorities find stolen car without license plates or registration card. By sending engine number to Department, information as to owner may be obtained; (3) Upon attachment or otherwise, it may be important to know if a certain person owns a vehicle. By sending the name of person to Department, information as to ownership of a vehicle may be obtained.

Insurance companies are also interested in registration under engine number, as insurance policies generally describe car by name, type and motor number.

(c) The registration card shall contain upon the reverse side, forms for endorsement of signature and notice to the Department of a transfer of the vehicle.

(d) The certificate of title shall contain a statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the owner under a lease, contract of conditional sale or other like agreement. The certificate of title shall also contain upon the reverse side, forms of assignment of title or interest and warranty thereof with space for notation of liens and encumbrances upon such vehicle at the time of a transfer.

(e) Every certificate of title issued hereunder shall be valid for the life of the vehicle so long as the owner to whom the same is issued shall retain legal title or right of possession of or to such vehicle, and such certificate need not be renewed annually or at any other time except upon a transfer of title or interest of the owner.

SECTION 205. Release of Lien or Encumbrance Shown on Certificate of Title.

An owner upon securing the release of any lien or encumbrance upon a vehicle and shown upon the certificate of title issued therefor may exhibit the documents evidencing such release and the certificate of title to the Department and the latter when satisfied as to the genuineness and regularity thereof shall issue to such owner either a new certificate of title in proper form or an indorsement or rider showing the release of such lien or encumbrance which the Department shall attach to the outstanding certificate of title.

SECTION 206. Registration Card to be Carried.

The registration card issued for a vehicle required to be registered hereunder shall at all times while the vehicle is being operated upon a highway within this state be in the possession of the operator or chauffeur thereof and subject to inspection by any peace officer.

Note to Sec. 204.

This section designates the form of registration cards and certificates of title usually specified in the motor vehicle statutes. The draft with reference to certificates of title follows substantially the Michigan certificate of title law which has served as a model in numerous other states.

1 **SECTION 207. Number Plates to be Furnished by Department.**

2 (a) The Department shall also furnish to every owner whose
3 vehicle shall be registered one number plate for a motorcycle or
4 semi-trailer and two number plates for every other motor vehicle
5 and trailer.

6 (b) Every number plate shall have displayed upon it the
7 registration number assigned to the vehicle and to the owner
8 thereof, also the name of this state which may be abbreviated and
9 the year number for which it is issued. Such plate and the required
10 letters and numerals thereon except the year number for which
11 issued shall be of sufficient size to be plainly readable from a dis-
12 tance of one hundred feet during daylight.

1 **SECTION 208. Display of Plates.**

2 (a) Number plates assigned to a trailer and to a motor vehicle
3 other than a motorcycle shall be attached thereto, one in front
4 and the other in the rear. The number plate assigned to a motor-
5 cycle or semi-trailer shall be attached to the rear thereof. Number
6 plates shall be so displayed during the current registration year
7 except that an owner who sells or transfers a registered vehicle
8 shall remove the number plates therefrom and forward the same
9 to the Department or may have such plates and the registration
10 number thereon assigned to another vehicle upon payment of the
11 fees required by law and subject to the rules and regulations of
12 the Department.

13 (b) Every number plate shall at all times be securely fastened
14 to the vehicle to which it is assigned so as to prevent the plate
15 from swinging and at a height not less than twelve inches from

Note to Sec. 206.

Similar requirement is found in most vehicle statutes while a few specify that registration card shall be carried in plain sight in drivers compartment. This is for the purpose of identifying the vehicle and the owner and no hazard is incurred as a thief can not effect a transfer of the vehicle by means of the registration card without procuring also and forging an assignment upon the certificate of title which is not required to and should not be carried in the vehicle.

Note to Sec. 207.

Every state requires two number plates one to be displayed in front and one in the rear of every motor vehicle other than a motorcycle except that only one plate is required on a motor vehicle in Ga., N. Car., and Tex.

16 the ground, measuring from the bottom of such plate, in a position
17 to be clearly visible, and shall be maintained free from foreign
18 materials and in a condition to be clearly legible.

1 **SECTION 209. Renewal of Registration.**

2 (a) Every vehicle registration under this act shall expire
3 December thirty-first each year and shall be renewed annually
4 upon application by the owner and by payment of the fees re-
5 quired by law, such renewal to take effect on the first day of Janu-
6 ary each year.

7 (b) An owner who has made proper application for renewal of
8 registration of a vehicle previous to January first but who has not
9 received the number plates, plate or registration card for the en-
10 suing year shall be entitled to operate or permit the operation of
11 such vehicle upon the highways upon displaying thereon the
12 number plates or plate issued for the preceding year for such
13 time to be prescribed by the Department as it may find necessary
14 for issuance of such new plates.

1 **SECTION 210. Transfer of Title or Interest.**

2 (a) The owner of a vehicle registered under the foregoing
3 provisions of this act transferring or assigning his title or interest
4 thereto shall endorse the name and address of the transferee upon
5 the reverse side of the registration card issued for such vehicle
Note to Sec. 208.

Twenty-seven states now provide that upon a sale or transfer the number plates remain upon the vehicle during the remainder of the current year and the new owner secures a registration in his name under the existing license number. This is true in Ala., Ariz., Calif., Fla., Ga., Idaho., Ia., Kan., Ky., La., Mich., Miss., Mont., Nev., N. Mex., N. Y., N. Dak., Okla., Ore., S. Car., S. Dak., Tenn., Tex., Utah, Vt., W. Va., and Wis.

Twenty-one states require that upon a sale or transfer the plates must be removed and forwarded to the Department or in some instances they may be assigned to another vehicle. These include Colo., Conn., Del., D. C., Ill., Ind., Me., Md., Mass., Minn., Mo., Nebr., N. H., N. J., N. Car., Ohio, Penn., R. I., Va., Wash., and Wyo. The statute in Ark., is not clear.

The committee on Uniformity of Laws and Regulations of the National Conference on Street and Highway Safety has not finally determined which method is the better practice. The provision in the draft was written by a sub-committee.

Note to Sec. 209.

Practically every state requires annual renewal of registration upon the first of January.

and within five days shall forward such card to the Department. The owner shall also indorse an assignment and warranty of title upon the reverse side of the certificate of title of such vehicle with a statement of all liens or encumbrances thereon, shall acknowledge his signature thereto before a person authorized to administer oaths and shall deliver the certificate of title to the purchaser or transferee at the time of delivering the vehicle.

(b) The transferee shall thereupon write his name and address with pen and ink upon the certificate of title, and except as provided in the next subdivision of this section shall within five days forward such certificate to the Department with an application for the registration of such vehicle and for a certificate of title.

(c) When the transferee of a vehicle is a dealer who holds the same for resale and operates the same only for purposes of demonstration under a dealer's number plates or when the transferee does not drive such vehicle nor permit such vehicle to be driven upon the highways, such transferee shall not be required to register such vehicle nor forward the certificate of title to the Department, as provided in the preceding paragraph, but such transferee upon transferring his title or interest to another person shall give notice of such transfer to the Department and shall indorse and acknowledge an assignment and warranty of title upon such certificate and deliver the same to the person to whom such transfer is made.

(d) The Department, upon receipt of a certificate of title properly assigned and acknowledged, accompanied by an application for registration, shall register the vehicle therein described and shall issue to the person entitled thereto by reason of such transfer a new registration card, number plate or plates and certificate of title in the manner and form hereinbefore provided for original registration.

(e) Whenever the applicant for the registration of a vehicle or a new certificate of title thereto is unable to present a certificate of title thereto by reason of the same being lost or unlawfully detained by one in possession, or the same is otherwise not available, the Department is hereby authorized to receive such application and to examine into the circumstances of the case and may require the filing of affidavits or other information, and when the Depart-

ment is satisfied that the applicant is entitled thereto is hereby authorized to register such vehicle and issue a new registration card, number plate or plates and certificate of title to the person entitled thereto.

(f) In the event of the transfer by operation of law of the title or interest of an owner in and to a vehicle registered under the provisions of this act, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract or otherwise than by the voluntary act of the person whose title or interest is so transferred, the transferee or his legal representative shall make application to the Department for a certificate of title therefor giving the name and address of the person entitled thereto, and accompany such application with the registration card and certificate of title previously issued for the vehicle, if available, together with such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title or interest in or to chattles in such case. The Department, when satisfied of the genuineness and regularity of such transfer, shall cancel the registration of such vehicle and issue a new certificate of title therefor to the person entitled thereto. The transferee may also apply for and obtain the registration of such vehicle.

SECTION 211. **Registration by Manufacturers and Dealers.**

(a) A manufacturer of or dealer in motor vehicles, trailers or semi-trailers, owning or operating any such vehicle upon any highway in lieu of registering each such vehicle may obtain from the department upon application therefor upon the proper official form and payment of the fees required by law and attach to each such vehicle one or duplicate license plates, as required for different classes of vehicles by Section 207 (a), which plate, or set of plates shall each bear thereon a distinctive number, also the name of this state, which may be abbreviated, and the year for which issued, together with the word "Dealer" or a distinguishing symbol indicating that such plate or plates are issued to a manufacturer or dealer, and any such plates so issued may, during the calender year for which issued, be transferred from one such

15 vehicle to another owned or operated by such manufacturer or
16 dealer who shall keep a written record of the vehicles upon which
17 such dealers' number plates are used, which record shall be open
18 to inspection by any police officer or any officer or employee of the
19 department.

20 (b) Every manufacturer of or dealer in motor vehicles, trailers
21 or semi-trailers shall obtain and have in possession a certificate of
22 title issued by the department to such manufacturer or dealer, or
23 to the immediate vendor of such manufacturer or dealer for each
24 motor vehicle, trailer and semi-trailer owned and operated upon
25 the highways by such manufacturer or dealer, except that a certifi-
26 cate of title shall not be required for any new vehicle to be sold as
27 such by a manufacturer or dealer.

28 (c) No manufacturer of or dealer in motor vehicles, trailer or
29 semi-trailers shall cause or permit any such vehicle owned by such
30 person to be operated or moved upon a public highway without
31 there being displayed upon such vehicle a number plate or plates
32 issued to such person, either under Section 207 or under this
33 Section except as otherwise authorized in subdivision (d) or (e)
34 of this Section.

35 (d) Any manufacturer of motor vehicles, trailers or semi-
36 trailers may operate or move or cause to be operated or moved
37 upon the highways for a distance not exceeding seventy-five miles
38 any such vehicle from the factory where manufactured to a railway
39 depot, vessel or place of shipment or delivery, without registering
40 the same and without number plates attached thereto under a
41 written permit first obtained from the local police authorities
42 having jurisdiction over such highways and upon displaying in
43 plain sight upon each such vehicle a placard bearing the name and
44 address of the manufacturer authorizing or directing such move-
45 ment.

46 (e) Any dealer in motor vehicles, trailers or semi-trailers may
47 operate or move, or cause to be operated or moved, any such
48 vehicle upon the highways for a distance not exceeding twenty-five
49 (25) miles from a vessel, railway depot, warehouse or any place of
50 shipment to a sales room, warehouse or place of shipment, or
51 trans-shipment without registering such vehicle and without
52 number plates attached thereto, under a written permit first

53 obtained from the local police authorities having jurisdiction over
54 such highways and upon displaying in plain sight upon each such
55 vehicle a placard bearing the name and address of the dealer
56 authorizing and directing such movement.

1 **SECTION 212. Manufacturer to Give Notice of Sale or Transfer.**

2 Every manufacturer or dealer, upon transferring a motor vehicle,
3 trailer or semi-trailer, whether by sale, lease or otherwise, to any
4 person other than a manufacturer or dealer, shall immediately give
5 written notice of such transfer to the Department upon the official
6 form provided by the Department. Every such notice shall
7 contain the date of such transfer, the names and addresses of the
8 transferor and transferee and such description of the vehicle as
9 may be called for in such official form.

1 **SECTION 213. Registration by Non-Residents.**

2 (a) A non-resident owner, except as otherwise provided in this
3 section, owning any foreign vehicle which has been duly registered
4 for the current calendar year in the state, country or other place
5 of which the owner is a resident and which at all times when
6 operated in this state has displayed upon it the number plate or
7 plates issued for such vehicle in the place of residence of such
8 owner may operate or permit the operation of such vehicle within
9 this state without registering such vehicle or paying any fees to
10 this state subject to the provisions of Section 302 of this act relating
11 to non-resident operators and chauffeurs.

12 (b) A non-resident owner of a foreign vehicle operated within
13 this state for the transportation of persons or property for compen-
14 sation either regularly according to a schedule or for a consecutive
15 period exceeding thirty days shall register such vehicle and pay
16 the same fees therefore as is required with reference to like vehicles
17 owned by residents of this state.

Note to Sec. 213.

Motor vehicle statutes disclose a striking lack of uniformity with respect to the privileges granted non-resident owners of foreign vehicles regularly registered in the home state of the owner. Non-resident privileges without registration and payment of fees are now granted for different periods ranging from 15 days as in Conn. and N. J., to six months in Calif., while many states extend reciprocal privileges often limited as to maximum period.

(c) Every non-resident including any foreign corporations carrying on business within this state and owning and regularly operating in such business any motor vehicle, trailer or semi-trailer within this state shall be required to register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state.

SECTION 214. Lost Certificates or Number Plates—Duplicates to be Obtained.

In the event that any number plate, registration card or certificate of title issued hereunder shall be lost, mutilated or shall have become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute therefor upon furnishing information of such fact satisfactory to the Department and upon payment of the required fees.

SECTION 215. Department Authorized to Assign New Engine Number.

The owner of a motor vehicle upon which the engine or serial number has become illegible or has been removed or obliterated shall immediately make application to the Department for a new engine or serial number for such motor vehicle. The Department, when satisfied that the applicant is the lawful owner or possessor of the vehicle referred to in such application, is hereby authorized to assign a new engine or serial number thereto and shall require that such number, together with the name of this state or a symbol indicating this state, and the date of such assignment be stamped upon the engine or in the event such number is a serial number then upon such portion of the motor vehicle as shall be designated by the Department. Whenever a new engine or serial number has been assigned to and stamped upon a motor vehicle as provided in this section the Department shall insert such number upon the registration card and certificate of title issued for such motor vehicle.

SECTION 216. Notice of Theft or Embezzlement.

Whenever the owner of any motor vehicle, trailer or semi-trailer which is stolen or embezzled, notifies the Department of such theft or embezzlement, provided in the event of an embezzlement the owner shall have first procured a warrant for the arrest of the

6 persons charged with such embezzlement, the Department shall
7 immediately suspend the registration of such vehicle and shall not
8 transfer the registration of such vehicle until such time as it shall
9 be notified that the owner has recovered such vehicle, but notices
10 given as heretofore provided shall be effective only during the
11 current registration year in which given, but if during such year
12 such vehicle is not recovered a new notice may be given with like
13 effect during the ensuing year. Every owner who has given a
14 notice of theft or embezzlement must immediately notify the
15 Department of the recovery of such vehicle.

1 **SECTION 217. Altering or Forging Certificate of Title or Regis-**
2 **tration Card a Felony.**

3 Any person who shall alter with fraudulent intent any certificate
4 of title or registration card issued by the Department, or forge or
5 counterfeit any certificate of title or registration card purporting
6 to have been issued by the Department under the provisions of
7 this act or who shall alter or falsify with fraudulent intent or
8 forge any assignment thereof, or who shall hold or use any such
8 certificate, registration card or assignment knowing the same to
9 have been altered, forged or falsified, shall be guilty of a felony
10 and upon conviction thereof shall be punished as provided in
11 Section 906 of this act.

TITLE IV

OPERATOR'S AND CHAUFFEUR'S LICENSES

1 **SECTION 300. Operators and Chauffeurs Must be Licensed.**

2 No person except those expressly exempted under sections 301,
3 302, 304 and 309d of this act shall drive any motor vehicle upon
4 a highway in this state unless such person upon application has
5 been licensed as an operator or chauffeur by the Department
6 under the provisions of this act.

1 **SECTION 301. What Persons are Exempt from License.**

2 (a) No person shall be required to obtain an operator's or
3 chauffeur's license for the purpose of driving or operating a road
4 roller, road machinery, or any farm tractor or implement of hus-
5 bandry temporarily drawn, moved or propelled on the highways..

(b) Every person enlisted in the Army, Navy, or Marine Corps of the United States and when furnished with a drivers permit and when operating an official motor vehicle in such service shall be exempt from license under this Act.

SECTION 302. Non-residents, When Exempt from License.

(a) A non-resident over the age of sixteen years who is permitted under the laws of his home state or country to drive a motor vehicle on the highways therein and who has in his immediate possession such valid operator's or chauffeur's license as has been issued to him in his home state or country shall be permitted without examination or license under this act to drive a motor vehicle upon the highways of this state for a period of not more than thirty consecutive days.

(b) A non-resident shall not drive any motor vehicle upon the highways of this state for a period of more than thirty consecutive days without making application for and obtaining from the Department a non-resident drivers permit and the Department may examine the applicant before issuing such permit or waive such examination when it determines that the basis upon which the non-resident has been granted permission by his home state or country to drive a motor vehicle is substantially in accord with the required qualifications for resident operators and chauffeurs in this state.

Note to Sec. 300.

Motor Vehicle statutes are far from uniform with respect to the licensing of operators and chauffeurs. Neither operators nor chauffeurs are required to obtain a license in Kan., Nebr., Nev., N. Mex., N. Car., S. Dak., Wyo., and N. Dak.

Operators need not secure license although chauffeurs must secure license in Ala., Ark., Col., Fla., Ga., Idaho, Ill., Ind., Ia., Ky., La., Miss., Mont., Ohio, Tex., Utah, and Va.

Both operators and chauffeurs must secure license in Ariz., Calif., Conn., Del., D. C., Md., Me., Mass., Mich., Mo., N. H., N. J., N. Y., Penn., Ore., R. I., Vt., Wash., and W. Va., except that in about one-half of these states an unlicensed person may drive when accompanied by the parent or in some states when accompanied by any licensed operator or chauffeur.

Operators and chauffeurs minimum age limits are noted under Sec. 307.

The National Conference on Street and Highway Safety has definitely recommended that every person be required to obtain a license from a state authority before operating any motor vehicle upon a public highway.

(c) Every such non-resident driver's permit shall be in the immediate possession of the person to whom issued when driving a motor vehicle in this state and such permit shall be subject to suspension or revocation upon the same grounds and in the same manner as operator's and chauffeur's licenses issued under this act, and it shall be unlawful for a non-resident whose non-resident driver's permit has been suspended or revoked to drive a motor vehicle upon any highway in this state during such period of suspension or revocation.

SECTION 303. What Persons Shall Not Be Licensed.

(a) An operator's license shall not be issued to any person under the age of sixteen years, and no chauffeur's license shall be issued to any person under the age of eighteen years, and no person under the age of eighteen years shall drive a motor vehicle while in use as a school bus for the transportation of pupils to or from school.

(b) The Department shall not issue an operator's or chauffeur's license to any person whose license, either as operator or chauffeur, has been suspended during the period for which such license was suspended, nor to any person whose license, either as operator or chauffeur, has been revoked under the provisions of this act until the expiration of one year after such license was revoked.

(c) The Department shall not issue an operator's or chauffeur's license to any person who it has determined is a habitual drunkard or is addicted to the use of narcotic drugs.

(d) No operator's or chauffeur's license shall be issued to any applicant who has previously been adjudged insane or an idiot, imbecile, epileptic or feeble-minded, and who has not at the time of such application been restored to competency and declared sane and fully recovered by judicial decree or released from a

Note to Sec. 302.

Motor vehicle statutes generally grant limited privileges to non-residents driving their own cars varying from fifteen days to six months while many states extend such privileges only on condition that the home state of the non-resident grants similar privileges to non-residents. Thus the motor tourist has faced uncertain and unsatisfactory conditions when travelling thru different states. The Committee on Uniformity of Laws and Regulations of the Conference on Street and Highway Safety directed that liberal non-resident privileges be incorporated in the draft.

hospital for the insane or feeble-minded upon a certificate of the superintendent that such person is discharged as fully recovered, nor then unless the Department is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

(e) The Department shall not issue an operator's or chauffeur's license to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs in the English language.

SECTION 304. **Instruction Permits.**

The Department upon receiving from any person over the age of sixteen years an application for a temporary instruction permit may in its discretion issue such a permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of sixty days when accompanied by a licensed operator or chauffeur.

SECTION 305. **Application for Operator's or Chauffeur's License.**

(a) Every application for an operator's or chauffeur's license shall be made upon the approved form furnished by the Department and shall be verified by the applicant before a person authorized to administer oaths.

Note to Sec. 303.

According to the best information at hand no minimum age limit for operators is required in Ariz., Ark., La., Minn., Miss., Mont., N. Dak., Ohio, Okla., Tenn., Tex., or Va., altho a number of these states require a minimum age limit of 16 or 18 for chauffeurs or drivers of common carriers of persons.

Eighteen states impose a minimum age limit for operators of 16 years, eight states 15 yrs., six states 14 yrs., with the remainder ranging from 12 yrs., in S. Car., to 18 yrs., in Conn. Occasionally minors below these limits may drive when accompanied by a licensed driver or parent. Chauffeurs minimum age limits vary from 14 to 21 yrs., with an average requirement of 18 yrs.

The National Conference on Street and Highway Safety adopted the following:—"It is recommended that all states designate the minimum age limit, but that no person under sixteen years of age, and no person who cannot read English, should be permitted to operate, drive or direct a motor vehicle."

6 (b) Every application shall state the name, age, sex and
7 residence address of the applicant, and whether or not the applicant
8 has heretofore been licensed as an operator or chauffeur and if so
9 when and by what state, and whether or not such license has ever
10 been suspended or revoked and if so the date of and reason for
11 such suspension or revocation.

1 **SECTION 306. Application of Minors.**

2 The Department shall not grant the application of any minor
3 under the age of eighteen years for an operator's license unless such
4 application is signed by the father of the applicant, if the father
5 is living and has custody of the applicant, otherwise by the mother
6 or guardian having the custody of such minor.

1 **SECTION 307. Examination of Applicants.**

2 (a) The Department shall examine every applicant for an
3 operator's or chauffeur's license before issuing any such license,
4 except as otherwise provided in subdivisions (b) and (c) of this
5 section. The Department shall examine the applicant as to his
6 physical and mental qualifications to operate a motor vehicle in
7 such manner as not to jeopardize the safety of persons or property
8 and as to whether any facts exist which would bar the issuance of
9 a license under Section 303 of this Act. The Department shall
10 make provision for conducting such examination in the county
11 wherein the applicant resides; and the applicant shall be required
12 to give a practical demonstration of his ability to operate a motor
13 vehicle in a manner approved by the Department.

14 (b) The Department may in its discretion waive the examina-
15 tion of any person applying for the renewal of an operator's or
16 chauffeur's license issued under this act.

17 (c) The Department may in its discretion issue an operator's
18 or chauffeur's license under this act without examination to every
19 person applying therefor who is of sufficient age, as required by
20 Section 303 of this act, to receive the license applied for and who
21 at the time of such application has a valid unrevoked license of
22 like nature issued to such person under any previous law of this
23 state providing for the licensing of operators and chauffeurs.

Alternate

The Department may in its discretion issue an operator's or chauffeur's license under this act without examination to every person applying therefor within three months after this section takes effect and who is of sufficient age, as required by Section 303 of this act, to receive the license applied for and who furnishes evidence satisfactory to the Department that such applicant has previously operated any motor vehicle in a satisfactory manner within this state over a period not less than one year.

1 **SECTION 308. Register of Operators and Chauffeurs.**

2 The Department shall file every application for an operator's
3 or chauffeur's license and index the same by name and number and
4 maintain suitable records of all licenses issued and all applications
5 for licenses denied, also a record of all licenses which have been
6 suspended or revoked.

1 **SECTION 309. Licenses Issued to Operators and Chauffeurs.**

2 (a) The Department shall issue to every person licensed as an
3 operator an operator's license and to every person licensed as a
4 chauffeur a chauffeur's license. Every chauffeur before operating
5 a motor vehicle as a public or common carrier of persons or property
6 shall apply for and receive from the Department and at all times
7 while so operating a motor vehicle shall display in plain sight upon
8 an outer garment a chauffeur's badge. Any person licensed as a
9 chauffeur under this act shall not be required to procure an oper-

Note—For adoption in those states not previously requiring that operators and chauffeurs be licensed.

Note to Sec. 307.

Examination of every applicant for an operators or chauffeurs license is required or authorized in the discretion of the Department in Calif., Conn., Del., D. C., Md., Mass., Mich., N. H., N. J., N. Y., Penn., R. I. and Vt., while provision is made for the examination of applicants for chauffeurs licenses in Fla., Ill., Ind., and La., and the Vehicle commissioner is authorized to refuse licenses to the unfit and to adopt regulations governing issuance of licenses in Colo., Me., Ore., Wash., and W. Va.

The First National Conference on Street and Highway Safety adopted the following recommendation, "Before granting an operator's license, the department or division should determine the applicants ability to operate a motor vehicle safely by ascertaining his physical and mental fitness and his knowledge of the laws, and by requiring an actual demonstration of his ability to operate a motor vehicle."

10 ator's license, but no person shall drive any motor vehicle as a
11 chauffeur unless licensed as a chauffeur.

12 (b) Every such license shall bear thereon the distinguishing
13 number assigned to the licensee and shall contain the name, age,
14 residence address and a brief description of the license for the pur-
15 pose of identification also a space for the signature of the licensee.

16 (c) Every chauffeur's badge shall be of metal with the dis-
17 tinguishing number assigned to the licensee stamped thereon.

18 (d) The Department upon determining after an examination
19 that an applicant is mentally, morally and physically qualified to
20 receive a license may issue to such person a temporary driver's
21 permit entitling such person while having such permit in his
22 immediate possession to drive a motor vehicle upon the highways
23 for a period of ten days before issuance to such person of an opera-
24 tor's or chauffeur's license.

1 SECTION 310. Duplicate License Certificates and Chauffeur's 2 Badges.

3 In the event that an operator's or chauffeur's license or a chauf-
4 feur's badge issued under the provisions of this act shall be lost
5 or destroyed, the person to whom the same was issued may obtain
6 a duplicate or substitute thereof upon furnishing proof satisfactory
7 to the Department that such license or badge has been lost or
8 destroyed and upon payment of the fees required by law.

1 SECTION 311. License to be Signed and Carried.

2 (a) Every person licensed as an operator or chauffeur shall
3 write his usual signature with pen and ink in the space provided
4 for that purpose on the license certificate issued to him immediately
5 upon receipt of such certificate, and such license shall not be valid
6 until the certificate is so signed.

7 (b) The licensee shall have such license in his immediate
8 possession at all times when driving a motor vehicle and shall
9 display the same upon demand of a (Justice of the Peace, a peace
10 officer or a field deputy or inspector of the Department). It shall
11 be a defense to any charge under this subsection that the person
12 so charged produce in court an operator's or chauffeur's license
13 theretofore issued to such person and valid at the time of his arrest.

1 **SECTION 312. Expiration of Licenses.**

2 Every operator's and chauffeur's license issued hereunder shall
3 expire (December thirty-first) each year and shall be renewed
4 annually upon application and payment of the fees required by
5 law provided that the Department in its discretion may waive
6 the examination of any such applicant previously licensed under
7 this act.

Alternate

1 **SECTION 312. Expiration of License.**

2 (a) Every operator's license issued hereunder shall be valid
3 until suspended or revoked as provided in this act except that the
4 commissioner may hereafter but not more often than once every
5 (two) years and after public notice cancel all outstanding operator's
6 licenses and issue in lieu thereof new operators' licenses to the per-
7 sons applying therefor and entitled thereto, such new licenses to
8 be issued without examination except in those instances when the
9 Department has reason to believe that the applicant may not be
10 qualified to hold an operator's license under this act.

11 (b) Every chauffeur's license issued hereunder shall expire
12 (December thirty-first) each year and shall be renewed annually
13 upon application and payment of the fees required by law pro-
14 vided that the Department in its discretion may waive the ex-
15 amination of any such applicant previously licensed as a chauffeur
16 under this act.

1 **SECTION 313. Suspension of License by a Court.**

2 Every court having jurisdiction under the laws of this state over
3 offenses committed under this act shall have authority to suspend
4 the licenses of operators and chauffeurs for those offenses and for
5 such periods of time as are specified in Title X of this Act. Upon
6 suspending the license of any operator or chauffeur the court shall
7 thereupon require the surrender of the license certificate and shall
8 immediately forward the same with the record of conviction as
9 required in Section 1001 to the Department.

Note to Sec. 312.

The majority of states licensing drivers require annual renewal particularly
of chauffeur's licenses on January 1st, or at another stated time of year.
These include Ark., Calif., Del., Fla., Ga., Ill., Ind., Ia., Ky., La., Mich.,
Mo., Mont., N. H., N. J., N. Y., Ore., Penn., Tex., Vt., Va., Wash., W. Va.

1 SECTION 314. **Mandatory Revocation of License by the Depart-**
2 **ment.**

3 (a) The Department shall forthwith revoke the license of any
4 person upon receiving satisfactory evidence of the conviction of
5 such person of any of the following crimes:

6 (1) Manslaughter resulting from the operation of a motor
7 vehicle.

8 (2) Driving a vehicle while under the influence of intoxicating
9 liquor or narcotic drugs.

10 (3) Any crime punishable as a felony under this act or any
11 other felony in the commission of which a motor vehicle is used.

12 (4) Conviction or forfeiture of bail upon one or more charges
13 of reckless driving and one or more charges of speeding, making a
14 total of three convictions or forfeitures of bail upon charges of
15 either reckless driving or speeding all within the preceding twelve
16 months.

17 (b) The Department upon receiving evidence that any licensed
18 operator or chauffeur has been charged by legal complaint, in-
19 formation or indictment with having committed any offense
20 mentioned in the first three numbered paragraphs of subdivision

Note to Secs. 313 and 314.

The National Conference on Street and Highway Safety has appointed a special Committee on Enforcement which is including in its investigations the subject of suspension and revocation of licenses and will later submit a report of its findings and recommendations to the main Conference.

The Committee on Enforcement has under consideration a draft of a report dated July 14 recommending:—

1. That traffic courts should be permitted and encouraged to suspend licenses and authorized to recommend to the Commissioner that licenses be revoked.

2. That the right to revoke licenses should be centered in one authority, the Commissioner of Motor Vehicles.

3. That the law make mandatory the suspension or revocation of licenses in addition to other penalties for the more serious offenses.

4. That appropriate provisions be made giving a right of appeal to an impartial board or to a higher court in the event of suspension or revocation of a license.

Thus those provisions of the draft dealing with the subject of suspension and revocation of licenses may be subject to extensive recommended alteration when the matter comes before the Committee on Enforcement and later before the Conference on Street and Highway Safety.

21 (a) of this section may in its discretion suspend the license of
22 such person pending the determination of such charge.

1 **SECTION 315. Department May Suspend or Revoke Licenses.**

2 (a) Whenever the Department has reason to believe that any
3 licensed operator or chauffeur is incompetent to drive a motor
4 vehicle or is afflicted with mental or physical infirmities or dis-
5 abilities rendering it unsafe for such person to drive a motor vehicle
6 the Department after notice to such person may conduct an in-
7 vestigation and require an examination of such person in the
8 county wherein such person may reside and upon good cause ap-
9 pearing thereon may thereupon suspend or revoke the license of
10 such person.

11 (b) Whenever the department has reason to believe that any
12 licensed operator or chauffeur is an habitual reckless or negligent
13 driver or has in one or more instances driven a motor vehicle in a
14 reckless or negligent manner and has thereby caused death or
15 injury to any person or serious damage to property the Department
16 after notice to the licensee may conduct a hearing in the county
17 wherein the licensee may reside and good cause appearing therefore
18 may thereupon suspend or revoke the license of such operator or
19 chauffeur.

20 (c) The Department shall not suspend a license for a period of
21 more than one year and upon suspending or revoking any license
22 shall require that such license and the badge of any chauffeur
23 whose license is so suspended or revoked shall be surrendered to
24 and retained by the Department except that at the end of a period
25 of suspension such license and any chauffeur's badge so surrendered
26 shall be returned to the licensee.

1 **SECTION 316. Right of Appeal to Court.**

2 Any person denied a license or whose license has been revoked
3 by the Department except where such revocation is mandatory
4 under the provisions of this Act shall have the right to file a
5 petition within thirty days thereafter for a hearing in the matter
6 in (a court of record) in the County wherein such person shall reside
7 and such (court) is hereby vested with jurisdiction and it shall be
8 its duty to set the matter for hearing upon ten days written notice
9 to the Commissioner, and thereupon to take testimony and ex-

10 amine into the facts of the case and to determine whether the
11 petitioner is entitled to a license or is subject to revocation of
12 license under the provisions of this Act.

1 **SECTION 317. New License After Revocation.**

2 Any person whose license is revoked under this act shall not be
3 entitled to apply for or receive any new license until the expiration
4 of one year from the date such former license was revoked.

1 **SECTION 318. When Parent or Guardian Liable for Negligence of**
2 **Minor.**

3 Any negligence of a minor under the age of eighteen years
4 licensed upon application signed as provided in section 306 when
5 driving any motor vehicle upon a highway shall be imputed to the
6 person who shall have signed the application of such minor for
7 said license, which person shall be jointly and severally liable,
8 with such minor for any damages caused by such negligence.

1 **SECTION 319. Owner Liable for Negligence of Minor.**

2 Every owner of a motor vehicle causing or knowingly permitting
3 a minor under the age of eighteen years to drive such vehicle upon
4 a highway shall be jointly and severally liable with such minor for
5 any damages caused by the negligence of such minor in driving
6 such vehicle.

1 **[SECTION 320. State, Counties and Municipalities when Liable for**
2 **Negligence of Their Employees.**

3 This state and every county, city and municipal corporation
4 within this state and employing any operator or chauffeur shall
5 be jointly and severally liable with such operator or chauffeur for
6 any damages caused by the negligence of the latter while driving
7 a motor vehicle upon a highway in the course of his employment.]

TITLE V

REFUSAL OR CANCELLATION OF REGISTRATIONS, CERTIFICATES OF TITLE AND LICENSES, AND VIOLATIONS OF PROVISIONS RELATING THERETO

1 **SECTION 400. When Registration, Certificate of Title or License**
2 **Shall be Refused.**

3 The Department shall not grant an application for the registra-

tion of a vehicle or a certificate of title therefor or for an operator's or chauffeur's license in any of the following events:—

(a) When the applicant therefor is not entitled thereto under the provisions of this Act.

(b) When the applicant has neglected or refused to furnish the Department with the information required in the appropriate official form or reasonable additional information required by the Department.

(c) When the fees required therefor by law have not been paid.

SECTION 401. When Registration or License Shall be Rescinded.

(a) The department shall rescind and cancel the registration of any vehicle which the Department shall determine is unsafe or unfit to be operated or is not equipped as required by this Act.

(b) The Department shall rescind and cancel the registration of a vehicle or an operator's or chauffeur's license whenever the person to whom the registration card or registration number plates therefor or license has been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person not entitled thereto.

SECTION 402. Violations of Registration and Licensing Provisions.

It shall be unlawful for any person to commit any of the following acts:

First. To operate or for the owner thereof to knowingly permit the operation upon a highway of any motor vehicle, trailer or semi-trailer which is not registered or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the number plate or plates assigned thereto by the Department for the current registration year, subject to the exemption mentioned in Section 209 of this act;

Second. To display or cause or permit to be displayed or to have in possession any certificate of title, number plate or operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

Third. To lend to or knowingly to permit the use by one not entitled thereto any registration card, any number plate or operator's or chauffeur's license issued to the person so lending or permitting the use thereof;

Fourth. To display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying the same;

Fifth. To fail or refuse to surrender to the Department, upon demand, any certificate of title or registration card, number plate or operator's or chauffeur's license which has been suspended, canceled or revoked, as in this act provided;

Sixth. To use a false or fictitious name in any application for the registration of any vehicle or for a certificate of title or for an operator's or chauffeur's license, or any renewal or duplicate thereof, or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

SECTION 403. Making False Affidavit Perjury.

Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this act to be sworn or affirmed to, shall be guilty of perjury and upon conviction shall be punishable by fine and imprisonment as other persons committing perjury are punishable.

SECTION 404. Unlawful to Permit Unlicensed Minor to Drive Motor Vehicle.

It shall be unlawful for any person to cause or knowingly permit his or her child or ward under the age of eighteen years to drive a motor vehicle upon a highway as an operator, unless such child or ward shall have first obtained a license to so drive a motor vehicle under the provisions of this act.

SECTION 405. Unlawful to Employ Unlicensed Chauffeur.

No person shall employ any chauffeur to operate a motor vehicle who is not licensed as provided in this act.

SECTION 406. Unlawful to Permit Violations of Act.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person who has no legal right to do so or in violation of any of the provisions of this act.

SECTION 407. Unlawful to Drive While License Suspended or revoked.

Any person whose operator's or chauffeur's license has been suspended or revoked, as provided in this act, and who shall drive

5 any motor vehicle upon the highways of this state while such license
6 is suspended or revoked, shall be guilty of a misdemeanor and upon
7 conviction shall be punished as provided in section 902 of this act.

TITLE VI

THE SIZE, WEIGHT, CONSTRUCTION AND EQUIPMENT OF VEHICLES

1 SECTION 500. **Scope and Effect of Regulations in this Title.**

2 It shall be unlawful and constitute a misdemeanor for any
3 person to drive or move or for the owner to cause or knowingly
4 permit to be driven or moved on any highway any vehicle or
5 vehicles of a size or gross weight exceeding the limitations stated
6 in this title or any vehicle or vehicles which are not so constructed
7 or equipped as required in this title or the rules and regulations
8 of the Department adopted pursuant thereto and the maximum
9 size and weight of vehicles herein specified shall be lawful through-
10 out this state, and local authorities shall have no power or authority
11 to alter said limitations except as express authority may be granted
12 in this act.

1 SECTION 501. **Size of Vehicles and Loads.**

2 (a) No vehicle shall exceed a total outside width, including
3 any load thereon, in excess of ninety-six inches, except that the
4 width of a farm tractor shall not exceed one hundred eight inches,
5 and excepting, further, that the limitations as to size of vehicles
6 stated in this section shall not apply to implements of husbandry
7 temporarily propelled or moved upon the public highway.

8 (b) No vehicle unladen or with load shall exceed a height of
9 twelve feet, six inches.

Note to Sec. 500.

Municipalities and counties, either by constitutional or legislative grant, are generally vested with power to enact local police regulations not in conflict with state laws. In the event that a state declares only certain maximum limitations upon the size and weight of vehicles, local authorities may add further restrictions. The State Legislature may prevent this by covering the entire field of legislation with reference to the particular subject matter. This the Legislature may do by declaring what size and weight shall be lawful as well as what shall be unlawful.

The text in Section 500 is so worded as to preclude local authorities from altering the limitations referred to therein except in those particulars expressly authorized by the Legislature in this act.

(c) No vehicle shall exceed a length of thirty feet, and no combination of vehicles coupled together shall exceed a total length of eighty-five feet.

(d) No train of vehicles or vehicle operated alone shall carry any load extending more than three feet beyond the front thereof.

(e) No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.

SECTION 502. **Flag or Light at End of Load.**

Whenever the load on any vehicle shall extend more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load in such position as to be clearly visible at all times from the rear of such load a red flag not less than twelve inches both in length and width, except that between one-half hour after sunset and one-half hour before sunrise there shall be displayed at the end of any such load a red light plainly visible under normal atmospheric conditions at least two hundred feet from the rear of such vehicle.

SECTION 503. **Weight of Vehicles and Loads.**

The maximum weight of vehicles laden or unladen shall be as stated in the following schedule:

SECTION 504. **Peace Officer May Weigh Vehicle and Require Removal of Excess Load.**

Any (peace officer) having reason to believe that the weight of a vehicle and load is unlawful is authorized to weigh the same either by means of loadometers or scales, and may require that such vehicle be driven to the nearest scales in the event such scales are within two miles. The officer may then require the driver to immediately unload such portion of the load as may be necessary

Note to Sec. 501.

The motor vehicle statutes in practically all states prescribe a limitation as to width of vehicles and in most instances as to height and length. The section imposes limitations corresponding to the average maximum permitted in the states.

Note to Sec. 502.

Similar provisions are in force in Calif., Conn., Ky., Me., Md., Mo., R. I., Utah, Wash., W.Va., and possibly additional states.

9 to decrease the gross weight of such vehicle to the maximum
10 therefor specified in this act.

1 **SECTION 505. Permits for Excessive Size and Weight.**

2 The State Highway Commission (or other proper state authority)
3 and local authorities in their respective jurisdictions may, in their
4 discretion, upon application in writing and good cause being shown
5 therefor, issue a special permit in writing authorizing the applicant
6 to operate or move a vehicle upon the highways of a size or weight
7 exceeding the maximum specified in this act. Every such permit
8 shall be issued for a single trip and may designate the route to be
9 traversed and contain any other restrictions or conditions deemed
10 necessary by the body granting such permit. Every such permit
11 shall be carried in the vehicle to which it refers and shall be open
12 to inspection by any peace officer, and it shall be a misdemeanor
13 for any person to violate any of the terms or conditions of such
14 special permit.

1 **SECTION 506. When Local Authorities May Decrease Weight**
2 **Limits.**

3 Local authorities may by ordinance decrease the permissible
4 weight limits herein specified for vehicles and loads for a total
5 period not to exceed ninety days in any one calendar year when
6 operated or moved upon any highway which by reason of deteriora-
7 tion, rain, snow or other climatic conditions will be destroyed unless
8 such weights are reduced. The local authority enacting any such

Note to Sec. 503.

The committee on Uniformity of Laws and Regulations has not determined what maximum limitations should be imposed or whether this matter should be covered by law or regulations of the State Highway Department.

Vehicle statutes generally impose gross weight limits for various classes of vehicles. The limits differ to such an extent as to render it impossible to give them in detail in this note. Fla., limits gross weight of vehicle to 16,000 lb. outside of municipalities. N. Car., 15,000 lb.; Vt., 16,000, within cities except under permit while other states allow as much as 28,000 or 30,000 gross weight on four wheeled vehicles.

Note to Sec. 504.

Similar authorization is given to enforcement officers in Ark., Cal., Del., D. C., Ill., Nev., R. I., and possibly in additional states.

Note to Sec. 505.

Vehicle statutes authorize state or local bodies to issue special permits for excess size and weight in 27 states.

ordinance shall cause or permit to be erected and maintained signs stating the lawful weight specified in such ordinance at each end of that portion of any highway upon which the permissible weight is so decreased, and no such ordinance shall be effective until such signs are erected.

SECTION 507. **Restrictions as to Tire Equipment.**

(a) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use tire chains of reasonable proportions when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid.

(c) The state Highway Commission (or other proper state body) and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks.

SECTION 508. **Trailers and Towed Vehicles.**

(a) No motor vehicle shall be driven upon any highway drawing or having attached thereto more than one other vehicle, except that a motor vehicle with semi-trailer may draw in addition thereto one other vehicle.

(b) The draw bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, shall not exceed fifteen feet in length from one vehicle to the other. Whenever such connection consists of a chain, rope or cable,

Note to Sec. 506.

Vehicle statutes contain special provisions relative to the power of local bodies to decrease weight limits corresponding in general with this section in nineteen and possibly additional states.

Note to Sec. 507.

Similar provisions are imposed in 18 states.

there shall be displayed upon such connection a red flag, or cloth not less than twelve inches both in length and width.

SECTION 509. **Brakes.**

Every motor vehicle and every train of motor drawn vehicles when operated upon a highway shall be equipped with brakes, adequate to control the movement of and to stop such vehicle or vehicles, including service brakes and an additional and independent emergency brake, except that a motorcycle need be equipped with only one brake, and all such brakes shall be maintained in good working order and shall conform to regulations not inconsistent with this section to be promulgated by the Commissioner.

SECTION 510. **Horns and Warning Devices.**

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police and fire department vehicle and every ambulance used for emergency calls shall be equipped with a siren or exhaust whistle of a type approved by the Department.

SECTION 511. **Mirrors.**

No person shall drive a motor vehicle on a highway which motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position, unless such vehicle is equipped

Note to Sec. 509.

At least 40 states require "adequate brakes in good working order," some requiring two independent sets and a few specifying the distances within which brakes shall be capable of stopping a vehicle.

Note to Sec. 510.

Practically every state requires horns and many impose restrictions on use of sirens, exhaust or spark plug whistles.

6 with a mirror so located as to reflect to the driver a view of the
7 highway for a distance of at least two hundred feet to the rear of
8 such vehicle.

1 **SECTION 512. Windshields on Motor Vehicles.**

2 It shall be unlawful for any person to drive any vehicle upon a
3 highway with any sign, poster or other non-transparent material
4 upon the front windshield, side wings, side or rear windows of
5 such motor vehicle other than a certificate or other paper required
6 to be so displayed by law.

1 **SECTION 513. Prevention of Noise, Smoke, Etc. Muffler Cut-**
2 **Outs Regulated.**

3 (a) No person shall drive a motor vehicle on a highway unless
4 such motor vehicle is equipped with a muffler in good working
5 order and in constant operation to prevent excessive or unusual
6 noise, annoying smoke and the escape of excessive gas, steam or oil.
7 All exhaust pipes carrying exhaust gases from the motor shall be
8 directed parallel with the ground or slightly upward.

9 (b) It shall be unlawful to use a "muffler cut-out" on any
10 motor vehicle upon a highway.

11 (c) No vehicle shall be driven or moved on any highway unless
12 such vehicle is so constructed as to prevent its contents from
13 dropping, sifting, leaking, or otherwise escaping therefrom.

1 **SECTION 514. Required Lighting Equipment of Vehicles.**

2 (a) **WHEN VEHICLES MUST BE EQUIPPED.**

3 Every vehicle upon a highway within this state during the period
4 from a half hour after sunset to a half hour before sunrise and at
5 any other time when there is not sufficient light to render clearly
6 discernible any person on the highway at a distance of two hundred
7 feet ahead, shall be equipped with lighted front and rear lamps as
8 in this section respectively required for different classes of vehicle
9 and subject to exemption with reference to lights on parked vehicles
10 as declared in section 522.

Note to Sec. 511.

Mirrors are required under conditions stated or on commercial vehicles in
27 states.

Note to Sec. 513

Regulations as to noise, use or equipment with muffler cutouts are imposed
in 24 states.

11 (b) HEAD LAMPS ON MOTOR VEHICLES.

12 Every motor vehicle other than a motorcycle, road-roller, road
13 machinery, or farm tractor shall be equipped with two head lamps,
14 no more and no less, of approximately equal candle power at the
15 front of and on oppositesides of the motor vehicle which head lamps
16 shall comply with the requirements and limitations set forth in
17 section 516 or section 517 and except as to acetylene headlamps
18 shall be of a type which has been approved by the Commissioner.

19 (c) HEAD LAMPS ON MOTORCYCLES.

20 Every motorcycle shall be equipped with at least one and not
21 more than two head lamps which shall be of a type approved by
22 the Commissioner and shall project sufficient light to the front of
23 such motorcycle to reveal a person at a distance of two hundred
24 feet but shall not project a glaring or dazzling light to persons
25 approaching such motorcycle.

26 (d) REAR LAMPS.

27 Every motor vehicle and every trailer or semi-trailer which is
28 being drawn at the end of a train of vehicles shall carry at the rear
29 a lamp exhibiting a red light plainly visible under normal atmos-
30 pheric conditions from a distance of five hundred feet to the rear
31 of such vehicle and so constructed and placed that the number
32 plate carried on the rear of such vehicle shall under like conditions
33 be so illuminated by a white light as to be read from a distance of
34 fifty feet to the rear of such vehicle.

35 (e) LAMPS ON BICYCLES

36 Every bicycle shall be equipped with a lighted lamp on the
37 front thereof visible under normal atmospheric conditions from a
38 distance of at least three hundred feet in front of such bicycle and
39 shall also be equipped with a reflex mirror or lamp on the rear
40 exhibiting a red light visible under like conditions from a distance
41 of at least two hundred feet to the rear of such bicycle.

42 (f) LIGHTS ON OTHER VEHICLES.

43 All vehicles not heretofore in this section required to be equipped
44 with specified lighted lamps shall carry one or more lighted lamps
45 or lanterns projecting a white light, visible under normal atmos-
46 pheric conditions from a distance of not less than 500 feet to the
47 front of such vehicle and projecting a red light visible under like

48 conditions from a distance of not less than 500 feet to the rear of
49 such vehicle.

1 **SECTION 515. Additional Permissible Lights on Vehicles.**

2 (a) **SPOT LIGHTS.**

3 Any motor vehicle other than a motorcycle may be equipped
4 with not to exceed two spot lights which shall be so affixed to the
5 vehicle and so controlled mechanically that no portion of the main
6 beam of light shall be projected or be capable of being projected
7 by any person in such vehicle to the left of the front vertical
8 center line of such vehicle and no spot shall be so located upon a
9 vehicle as to be directed to the rear of such vehicle.

10 (b) **FRONT SIDE LAMPS.**

11 Any motor vehicle may be equipped with two side lamps upon
12 the front of such vehicle and projecting a light to the front or side
13 and conforming to regulations adopted by the Commissioner. No
14 electrical lamps or bulbs exceeding four standard candle power
15 shall be used in any such side lamp.

16 (c) **AUXILIARY LAMPS.**

17 Any motor vehicle may be equipped with such auxiliary lights
18 of low candle power and illuminated signal devices as may be
19 permitted or required under this act or the rules and regulations
20 adopted by the Commissioner.

21 (d) **OTHER EXTERIOR LIGHTS PROHIBITED.**

22 No vehicle shall be equipped with any lighting device other
23 than those required or permitted in this or the preceding section
24 except that this provision shall not be deemed to prevent the use
25 upon a motor vehicle of interior lights of low candle power.

1 **SECTION 516. Requirements as to Head Lamps.**

2 (a) The head lamps of motor vehicles shall be so constructed,
3 arranged, and adjusted that they will at all times mentioned in
4 section 514 and under normal atmospheric conditions produce a
5 driving light sufficient to render clearly discernible a person two
6 hundred feet ahead but shall not project a glaring or dazzling
7 light to persons in front of such head lamps.

8 (b) Head lamps shall be deemed to comply with the foregoing
9 provisions prohibiting glaring and dazzling lights if none of the

main bright portion of the head lamp beams rises above a horizontal plane passing through the lamp centers parallel to the level road upon which the loaded vehicle stands and in no case higher than forty-two inches, seventy-five feet ahead of the vehicle.

(c) Whenever a vehicle is being operated upon a highway or portion thereof which is sufficiently lighted to reveal any person upon the highway at a distance of two hundred feet ahead of such vehicle it shall be permissible to dim the head lamps or to tilt the main beams of light thereof downward or such head lamps may be extinguished provided such vehicle is equipped with two lighted side lamps projecting a light to the front of such vehicle and which comply with the rules and regulations of the Commissioner.

SECTION 517. **Acetylene Lights.**

Motor vehicles may be equipped with two acetylene head lamps of approximately equal candle power when equipped with clear plane glass fronts, bright six inch spherical mirrors and standard acetylene five-eighths foot burners not more and not less and which project a driving light sufficient to render clearly discernible a person upon the roadway within a distance of two hundred feet but must not project a glaring or dazzling light into the eyes of approaching drivers.

SECTION 518. **Test and Approval of Head Lamps.**

(a) The Commissioner is hereby authorized and required to adopt and enforce standard specifications as to the amount, quality, color, and direction of light to be projected by head lamps to enable them to comply with the requirements and limitations set forth in section 516, and the Commissioner is authorized and required to determine whether any head lamps of a type sold for use or used upon any motor vehicle will comply with the requirements of this act and the specifications adopted by the Commissioner and to approve such head lamp devices and to publish lists of such devices by name and type as he shall determine are lawful hereunder after laboratory test as provided in this section.

(b) The Commissioner is authorized to accept a certificate of the U. S. Bureau of Standards or some other recognized testing laboratory having an arrangement with the said Bureau by which

17 appeal may be made to it in case of dispute as to the findings of
18 such other laboratory which certificate certifies that a head lamp
19 device is of a type which by laboratory test has been found to meet
20 the requirements and limitations of this act and the specifications
21 adopted by the Commissioner when properly mounted, adjusted,
22 and equipped with proper candle power bulbs provided the Com-
23 missioner is hereby authorized to refuse approval to any head lamp
24 device certified as above which the Commissioner determines will
25 be in actual use unsafe, or impracticable or would fail to comply
26 with the provisions of this act.

Note to Sec. 518.

It is recommended that the motor vehicle Commissioner in each state adopt the standard current specifications for head lamps approved by the Illuminating Engineering Society.

The I. E. S. specifications now recommended are as follows:

Head lamps by laboratory test shall meet the following requirements and limitations:

1. In the median vertical plane parallel to the lamps on a level with the centers of the lamps not less than eighteen hundred and not more than six thousand apparent candle power.

2. In the median vertical plane, one degree of arc below the level of the center of the lamps, not less than seven thousand two hundred apparent candle power, and there shall not be less than seven thousand two hundred apparent candle power anywhere on the horizontal line through this point, one degree of arc to the left and to the right of this point.

3. In the median vertical plane, one degree of arc above the level of the center of the lamps, not more than twenty-four hundred nor less than eight hundred apparent candle power.

4. Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the center of the lamps not more than eight hundred apparent candle power.

5. One and one-half degrees of arc below the level of the center of the lamps and three degrees of arc to the left and to the right, respectively, of the median vertical plane not less than five thousand apparent candle power nor less than this amount anywhere on the line connecting these two points.

6. Three degrees of arc below the level of the center of the lamps and six degrees of arc to the left and to the right, respectively, of the medial vertical plane not less than two thousand apparent candle power nor less than this amount anywhere on the line connecting these two points.

ALTERNATE

An alternate section 518 is suggested for adoption in those states whose constitutions require specifications for head lamps to be incorporated in the law, rather than left to regulations of the Commissioner.

SECTION 518. **Head Lamp Specifications, Test and Approval.**

(a) The Commissioner is authorized and required to determine whether any head lamps of a type sold for use or used upon any motor vehicle will comply with the requirements of section 516 and the specifications set forth in this section and to approve such head lamp devices and to publish lists thereof by name and type as it shall determine are lawful herein after a laboratory test as provided in this act.

(b) The Commissioner is authorized to accept a certificate of the U. S. Bureau of Standards or some other recognized testing laboratory having an arrangement with the said Bureau by which appeal may be made to it in case of dispute as to the findings of such other laboratory which certificate certifies that a head lamp device is of a type which by laboratory test has been found to meet the specifications set forth in this section when properly mounted, adjusted, and equipped with proper candle power bulbs provided the Commissioner is hereby authorized to refuse approval to any device certified as above which the Commissioner determines will be in actual use unsafe or impracticable or would fail to comply with the provisions of this act.

(c) Head lamps by laboratory test shall meet the following requirements and limitations:

1. In the median vertical plane parallel to the lamps on a level with the centers of the lamps not less than eighteen hundred and not more than six thousand apparent candle power.

2. In the median vertical plane, one degree of arc below the level of the center of the lamps, not less than seven thousand two hundred apparent candle power, and there shall not be less than seven thousand two hundred apparent candle power anywhere on the horizontal line through this point, one degree of arc to the left and to the right of this point.

3. In the median vertical plane, one degree of arc above the

level of the center of the lamps, not more than twenty-four hundred nor less than eight hundred apparent candle power.

4. Four degrees of arc to the left of the median vertical plane and one degree of arc above the level of the center of the lamps not more than eight hundred apparent candle power.

5. One and one-half degrees of arc below the level of the center of the lamps and three degrees of arc to the left and to the right, respectively, of the median vertical plane not less than five thousand apparent candle power nor less than this amount anywhere on the line connecting these two points.

6. Three degrees of arc below the level of the center of the lamps and six degrees of arc to the left and to the right, respectively, of the median vertical plane not less than two thousand apparent candle power nor less than this amount anywhere on the line connecting these two points.

SECTION 519. Head Lamp Devices Must be Tested and Approved Before Sale or Use.

(a) It shall be unlawful for any person to sell or offer for sale, either separately or as a part of the equipment of a motor vehicle, or to use upon a motor vehicle on a highway any head lamp, head lamp lens, reflector, or head lamp control device or any combination thereof unless of a type which has been submitted to a laboratory test and found to comply with the specifications adopted by the Commissioner (or set forth in alternate section 518) and which type has been approved by the Commissioner.

(b) It shall be unlawful for any person to sell or offer for sale either separately or as a part of the equipment of a motor vehicle any head lamp device approved by the Commissioner unless such device bears thereon a trade mark or name and is accompanied by printed instructions as to the proper candle power globes to be used therewith as approved by the Commissioner and any particular methods of mounting or adjustment as to focus or tilt necessary to enable such device to meet the requirements of this act.

(c) The provisions of this section shall be effective from and after ninety days after the date this act shall go into effect.

1 **SECTION 520. Retest of Approved Head Lamp Devices.**

2 The Commissioner when having reason to believe that an ap-
3 proved head lamp device sold commercially does not under
4 ordinary conditions of use comply with the requirements of this
5 act may after notice to the manufacturer thereof suspend or revoke
6 the certificate of approval issued therefor until or unless such head
7 lamp device is resubmitted to and retested by an authorized testing
8 agency and is found to meet the requirements of this act. The
9 Commissioner may at the time of the retest purchase in the open
10 market and submit to the testing agency one or more sets of such
11 approved head lamp device and if such device upon such retest
12 fails to meet the requirements of this act the Commissioner may
13 refuse to renew the certificate of approval of such device.

1 **SECTION 521. Arrest upon Charge that Approved Head Lamps**
2 **are Improperly Adjusted or Equipped with Wrong Candle Power**
3 **Lamps.**

4 The driver of any motor vehicle equipped with approved head
5 lamps who is arrested upon a charge that such head lamps are im-
6 properly adjusted or are equipped with lamps or bulbs of a candle
7 power not approved for use therewith shall be allowed twenty-four
8 hours within which to properly adjust and equip such head lamps.
9 It shall be a defense to any such charge that the person arrested
10 produce in court or submit to the prosecuting attorney satisfactory
11 evidence that within twenty-four hours after such arrest, such head
12 lamps have been made to conform with the requirements of this act.

Note to Sec. 520.

This section is intended to insure that the proper standard of manufacture of an approved head lamp device will be maintained, otherwise the certificate of approval may be revoked. Motor vehicle departments have occasionally noted discrepancies between a device submitted to test and the same type of device sold commercially.

Note to Sec. 521.

Motorists experience considerable difficulty in maintaining their headlights in proper adjustment at all times. A correct focus or adjustment may be lost upon the vehicle traversing a rough roadway without the driver being aware of such fact. Section 521 has been inserted with the thought that the object of the law is attained by securing compliance therewith without imposing unnecessary penalties upon a motorist who has every reason to believe that he is driving with proper headlights.

1 **SECTION 522. Lights on Parked Vehicles.**

2 Whenever a vehicle is parked or stopped upon a highway
3 whether attended or unattended during the times mentioned in
4 section 514 there shall be displayed upon such vehicle one or
5 more lamps projecting a white light visible under normal atmos-
6 pheric conditions from a distance of five hundred feet to the front
7 of such vehicle and projecting a red light visible under like con-
8 ditions from a distance of five hundred feet to the rear except that
9 local authorities may provide by ordinance that no lights need be
10 displayed upon any such vehicle when parked in accordance with
11 local ordinances upon a highway where there is sufficient light to
12 reveal any person within a distance of two hundred feet upon such
13 highway.

1 **SECTION 523. Red or Green Light Visible From in Front of Vehicle**
2 **Prohibited.**

3 It shall be unlawful for any person to drive or move any vehicle
4 upon a highway with any red or green light thereon visible from
5 directly in front thereof. This section shall not apply to police or
6 fire department vehicles.

1 **SECTION 524. Signal Devices.**

2 (a) Any motor vehicle which is so constructed or carries a load
3 in such a manner as to prevent the hand and arm signal described
4 in this act from being visible both to the front and rear of such
5 vehicle shall be equipped with a mechanical or electric signal
6 device which meets the requirements of this act and is of a type
7 which has been approved by the Commissioner.

8 (b) Every device intended to give a signal of intention to turn
9 or stop a vehicle shall give a signal plainly visible at all times from
10 a distance of at least one hundred feet to the rear of the vehicle
11 upon which it is used.

12 (c) The Commissioner is authorized to adopt and enforce rules
13 and regulations not inconsistent with this section governing the
14 construction, location and operation of signal devices and the color
15 of lights which may be used in any such electric device. The Com-
16 missioner is authorized to accept a certificate of the U. S. Bureau
17 of Standards or some other recognized testing laboratory having
18 an arrangement with the said Bureau by which appeal may be

made to it in case of dispute as to the findings of such other laboratory which certificate certifies that a signal device is of a type which has been found to meet the requirement of this act and the regulations of the Commissioner with reference thereto.

(d) It shall be unlawful for any person to sell or offer for sale, either separately or as a part of the equipment of a vehicle, or to use upon a vehicle on a highway any signal device intended to give notice of intention to turn or stop the vehicle upon which it is used unless meeting the requirements of this act and of a type first approved by the Commissioner. This section shall be effective from and after ninety days after the date this act shall go into effect.

SECTION 525. **Retest of Approved Signal Devices.**

The Commissioner when having reason to believe that an approved signal device sold commercially does not under ordinary conditions of use comply with the requirements of this act or the regulations of the Commissioner may, after notice to the manufacturer thereof suspend or revoke the certificate of approval issued therefor until such signal device is resubmitted to and retested by an authorized testing agency and is found to meet such requirements. The Commissioner may at the time of such retest purchase in the open market and submit to the testing agency several sets of such approved signal device and if upon such retest such device fails to meet the requirements of this act and the regulations of the Commissioner, he may refuse renewal of the certificate of approval of such device.

TITLE VII

OPERATION OF VEHICLES

Rules of the Road

SECTION 600. **Persons Under Influence of Liquor or Drugs.**

It shall be unlawful and punishable as provided in Section 903 of this act for any person whether licensed or not who is an habitual user of narcotic drugs or any person who is under the influence of intoxicating liquor or narcotic drugs to drive any vehicle upon any highway within this state.

1 **SECTION 601. Reckless Driving.**

2 Any person who drives any vehicle upon a highway recklessly,
3 or at a speed or in a manner so as to endanger or be likely to en-
4 danger the life, limb or property of any person shall be guilty of
5 reckless driving and punished as provided in Section 904 of this
6 act.

1 **SECTION 602. Restrictions as to Speed.**

2 (a) Any person driving a vehicle on a highway shall drive the
3 same at a careful and prudent speed not greater than is reasonable
4 and proper, having due regard to the traffic, surface and width of
5 the highway and of any other conditions then existing, and no
6 person shall drive any vehicle upon a highway at such a speed as
7 to endanger the life, limb or property of any person.

8 (b) Subject to the provisions of subdivision (a) of this section
9 and except in these instances where a lower speed is specified in
10 this act, it shall be prima facie lawful for the driver of a vehicle to
11 drive the same at a speed not exceeding the following:

12 1. Four miles an hour in traversing a sidewalk from or into any
13 alley, private road or driveway;

14 2. Ten miles an hour when approaching within fifty feet of a
15 grade crossing of any steam, electric or street railway when the
16 driver's view is obstructed and twenty miles an hour when the
17 driver's view is not obstructed. A driver's view shall be deemed
18 to be obstructed when at any time during the last two hundred feet
19 of his approach to such crossing he does not have a clear and un-
20 interrupted view of such railway crossing and of any traffic on such

Note to Sec. 600.

Substantially the same prohibition is contained in the great majority of motor vehicle statutes.

Note to Sec. 601.

Motor vehicle statutes define reckless driving differently according to two theories not always clearly distinguished.

First. Wilfully and wantonly driving a vehicle recklessly and thereby endangering life, limb or property. Such provisions carry severe minimum and maximum penalties.

Second. Reckless driving broadly defined to include simple negligence and practically every violation of any of the rules of the road. Actually as well as theoretically such provisions carry lower penalties. When thus defined it frequently occurs that a charge of reckless driving is made in a large percentage of traffic violations which do not involve actual danger to life, limb or property.

21 railway for a distance of four hundred feet in both directions from
22 such crossing;

23 3. Ten miles an hour when passing a school during school recess
24 or while children are going to or leaving school during opening and
25 closing hours;

26 4. Fifteen miles an hour when approaching within fifty feet and
27 in traversing an intersection of highways when the driver's view
28 is obstructed. A driver's view shall be deemed to be obstructed
29 when at any time during the last one hundred feet of his approach
30 to such intersection he does not have a clear and uninterrupted
31 view of such intersection and of the traffic upon all of the highways
32 entering such intersection for a distance of two hundred feet from
33 such intersection;

34 5. Fifteen miles an hour in traversing or going around curves
35 or traversing a grade upon a highway when the driver's view is
36 obstructed within a distance of two hundred feet along such high-
37 way in the direction in which he is proceeding;

38 6. Fifteen miles an hour in a business district, as defined
39 herein;

40 7. Twenty miles an hour in a residence district, as defined herein;

41 8. Thirty-five miles an hour under all other conditions.

42 It shall be prima facie unlawful for any person to violate any of
43 the foregoing speed limitations, except as provided in subdivision
44 (c) of this section. In every charge of violation of this section the
45 complaint, also the summons or notice to appear, shall specify the
46 speed at which the defendant is alleged to have driven, also the
47 speed which this section declares shall be prima facie lawful at the
48 time and place of such alleged violation.

49 (c) Local authorities in their respective jurisdictions are hereby
50 authorized in their discretion to increase the speed which shall be
51 prima facie lawful upon through highways at the entrances to
52 which vehicles are by ordinance of such local authorities required
53 to stop before entering or crossing such through highways, but such
54 increased speed shall not be more than ten miles greater than the
55 speed limits otherwise applicable under this section upon such
56 highways.

1 SECTION 603. **Railroad Warning Signals Must be Obeyed.**

2 It shall be unlawful and constitute a misdemeanor for any per-
3 son driving a vehicle to fail to stop such vehicle and to remain
4 standing in a place of safety in obedience to a clearly visible and
5 positive signal at a highway and interurban or steam railway
6 grade crossing which gives warning of the immediate approach of
7 a railway train.

1 SECTION 604. **Vehicles Must Stop at Certain Railway Grade**
2 **Crossings.**

3 The (State Highway Commission) is hereby authorized to
4 designate particularly dangerous grade crossings of steam or inter-
5 urban railways by highways and to erect signs thereat notifying
6 drivers of vehicles upon any such highway to come to a complete
7 stop before crossing such railway tracks, and whenever any such
8 crossing is so designated and signposted it shall be unlawful for the
9 driver of any vehicle to fail to stop within fifty feet but not less
10 than ten feet from such railway tracks before traversing such
11 crossing.

1 SECTION 605. **Speed Limit for Vehicles Regulated According to**
2 **Weight and Tire Equipment.**

Note to Sec. 602.

Vehicle statutes in practically every state prohibit excessive speed in general terms as stated in subdivision (a) of this section. The definite limits or limits excess of which are prima facie evidence of unsafe driving in the statutes vary to such an extent that it is impractical to set forth a complete detailed comparison.

For example the speed limit in open country territory in N. H. and R. I. is 25 m.p.h. and in Va. speed in excess of 30 m.p.h. is conclusive evidence that speed is greater than is reasonable and proper. On the contrary Calif. declares a speed in excess of 35 m.p.h. prima facie but not conclusive evidence of speeding. Kan. allows 40 m.p.h., Fla. 45 m.p.h. and Nev. declares no definite limit. Special limits applicable in residential or business districts and under particular conditions vary to practically the same extent. A prima facie rule has been adopted in a number of states including the following: Ala., Calif., Conn., Del., Fla., Ind., Ill., Ky., La., Me., Md., Mass., Mo., N. Y., Ohio, S. Dak., and Vt.

Note to Sec. 604.

The Conference on Street and Highway Safety recommended this provision which raises a question as to the extent to which civil rights of motorists may be affected by inability to prove a complete observance of the rule.

1 **SECTION 606. Special Speed Limitation on Bridges.**

2 It shall be unlawful to drive any vehicle upon any public bridge,
3 causeway or viaduct at a speed which is greater than the maximum
4 speed which can with safety to such structure be maintained thereon,
5 when such structure is signposted as provided in this section.

6 The State Highway Commission (or other proper state body)
7 upon request from any local authorities shall, or upon its own
8 initiative may, conduct an investigation of any public bridge,
9 causeway or viaduct, and if it shall thereupon find that such
10 structure cannot with safety to itself withstand vehicles
11 traveling at the speed otherwise permissible under this act, the
12 Commission shall determine and declare the maximum speed of
13 vehicles which such structure can withstand, and shall cause or
14 permit suitable signs stating such maximum speed to be erected
15 and maintained at a distance of one hundred feet beyond each end
16 of such structure. The findings and determination of the Com-
17 mission shall be conclusive evidence of the maximum speed which
18 can with safety to any such structure be maintained thereon.

1 **SECTION 607. When Speed Limit not Applicable.**

2 The speed limitations set forth in this act shall not apply to
3 vehicles when operated with due regard for safety under the direc-
4 tion of the police in the chase or apprehension of violators of the
5 law or of persons charged with or suspected of any such violation
6 nor to fire department vehicles when traveling in response to a fire
7 alarm nor to county or municipal ambulances when traveling in
8 emergencies. This exemption shall not however protect the driver
9 of any such vehicle from the consequence of a reckless disregard
10 of the safety of others.

1 **SECTION 608. Drive on Right Side of Highway.**

2 Upon all highways of sufficient width, the driver of a vehicle
3 shall drive the same upon the right half of the highway and shall
4 drive a slow moving vehicle as closely as possible to the right-
5 hand edge or curb of such highway, unless it is impracticable to
6 travel on such side of the highway and except when overtaking

Note to Sec. 605.

Approximately thirty states impose special speed limits on vehicles exceed-
ing certain sizes or weights according to schedules which widely differ. The
section is left blank pending investigation and report of special committees.

and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in Sections 611 and 612 of this act.

SECTION 609. **Keep to the Right in Crossing Intersections or Railroads.**

In crossing an intersection of highways or the intersection of a highway by a railroad right of way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right side is obstructed or impassable.

SECTION 610. **Meeting of Vehicles.**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

SECTION 611. **Overtaking a Vehicle.**

(a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two feet to the left thereof, and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle.

(b) The driver of an overtaking motor vehicle outside of a business or residence district as herein defined shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction.

SECTION 612. **Limitations on Privilege of Overtaking and Passing.**

(a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(b) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 1000 feet.

(c) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any steam or

Note to Sec. 608.

This section and those following to and including Sec. 614 set forth standard rules of the road found subject to variations as to phraseology in practically every vehicle statute.

9 electric railway grade crossing nor at any intersection of highways
10 unless permitted so to do by a traffic or police officer.

1 **SECTION 613. Driver to Give Way to Overtaking Vehicle.**

2 The driver of a vehicle upon a highway about to be overtaken
3 and passed by another vehicle approaching from the rear at a law-
4 ful rate of speed shall give way to the right in favor of the over-
5 taking vehicle on suitable and audible signal being given by the
6 driver of the overtaking vehicle, and shall not increase the speed
7 of his vehicle until completely passed by the overtaking vehicle.

1 **SECTION 614. Following too Closely.**

2 (a) The driver of a motor vehicle shall not follow another
3 vehicle more closely than is reasonable and prudent, having due
4 regard to the speed of such vehicles and the traffic upon and con-
5 dition of the highway.

6 (b) The driver of any motor truck drawing a trailer shall not
7 follow another motor truck drawing a trailer within two hundred
8 feet when upon any public highway outside of a business or resi-
9 dence district.

1 **SECTION 615. Turning Around in Street.**

2 The driver of a vehicle upon any highway within a business
3 district shall not turn such vehicle so as to proceed in the opposite
4 direction except at an intersection of public highways.

1 **SECTION 616. Turning at Intersections.**

2 (a) Except as otherwise provided in this section, the driver of
3 a vehicle intending to turn to the right at an intersection shall
4 approach such intersection in the lane for traffic nearest to the
5 right-hand side of the highway, and in turning shall keep as closely

Note to Sec. 614 (b).

This subdivision is inserted to insure that truck trains will not follow one another so closely as to prevent other vehicles from obtaining an opportunity to pass the same in safety during breaks in oncoming traffic. Many motorists have reported that it is practically impossible to overtake and pass a long line of slow moving truck trains in the face of oncoming traffic.

Note to Sec. 615.

Doubt has been expressed as to whether prevailing practice in the majority of cities permits or prohibits turning in the middle of the block also as to what is the desirable practice. The section is retained in the draft for the present to permit of final determination of the matter.

as practicable to the righthand curb or edge of the highway, and when intending to turn to the left shall approach such intersection in the lane for traffic to the right of and nearest to the center line of the highway and in turning shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left.

For the purpose of this section, the center of the intersection shall mean the meeting point of the medial lines of the highways intersecting one another.

(b) Local authorities in their respective jurisdictions may modify the foregoing method of turning at intersections by clearly indicating by buttons, markers or other direction signs within an intersection the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in a manner as so directed when such direction signs are authorized by local authorities.

SECTION 617. Signals on Starting, Stopping or Turning.

(a) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement shall give a signal as required in this section plainly visible to the driver of such other vehicle of the intention to make such movement.

(b) The signal herein required shall be given by means of the hand and arm in the manner herein specified except when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear in which event the

Note to Sec. 616

Doubt has been expressed as to the advisability of that portion of (a) requiring left turn from lane of traffic to the right of and nearest to the center line of the highway. A contrary requirement with reference to left turns has been suggested as follows: "—and when intending to turn to the left shall approach such intersection in the lane for traffic nearest to the right hand side of the highway and in turning shall pass around or over the center of the intersection."

signal shall be given by a device of a type which has been approved by the Department.

Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

SECTION 618. **Right of Way.**

(a) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right except as otherwise provided in Section 619. The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.

(b) The driver of a vehicle approaching but not having entered an intersection shall yield the right of way to a vehicle within such intersection and turning therein to the left across the line of travel of such first mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn left as required in Section 617.

(c) The driver of any vehicle upon a highway within a business or residence district shall yield the right of way to a pedestrian crossing such highway within any clearly marked crosswalk or any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block,

Note to Sec. 617.

The majority of states prescribe merely that "a timely warning or plainly visible signal of intention to stop or turn shall be given. Thus custom has brought about an infinite variety of hand and arm signals resulting in confusion and increased hazard in highway travel.

A three way hand and arm signal practically uniform has been adopted by statute in Calif., Idaho, Ind., Ky., Mo., Ore., Utah, Wash., W.Va., and is given as follows:

Left turn—hand and arm horizontal.

Right turn—hand and arm pointed upward.

Stop—hand and arm pointed downward.

All signals to be given from left side of vehicles during last fifty feet traveled under a number of statutes.

The Conference on Street and Highway Safety has recommended a single cautionary signal as required in the draft.

except at intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices. Every pedestrian crossing a highway within a business or residence district at any point other than a pedestrian crossing, crosswalk or intersection shall yield the right of way to vehicles upon the highway.

SECTION 619. Exceptions to the Right of Way Rule.

(a) The driver of a vehicle entering a public highway from a private road or drive shall yield the right of way to all vehicles approaching on such public highway.

(b) The driver of every vehicle upon a highway shall yield the right of way to police and fire department vehicles when the latter are operated upon official business and the drivers thereof sound audible signal by siren or exhaust whistle. This provision shall not operate to relieve the driver of a police or fire department vehicle from the duty to drive with due regard for the safety of all persons using the highway nor shall it protect the driver of any such vehicle from the consequence of an arbitrary exercise of such right of way.

SECTION 620. Vehicles Must Stop at Certain Through Highways.

The State Highway Commission with reference to state highways and local authorities with reference to highways under their jurisdiction are hereby authorized to designate main traveled or through highways by erecting at the entrances thereto from intersecting highways signs notifying drivers of vehicles to come to a full stop before entering or crossing such designated highway, and whenever any such signs have been so erected it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto.

SECTION 621. What to do on Approach of Police or Fire Department Vehicle.

(a) Upon the approach of any police or fire department vehicle giving audible signal by siren or exhaust whistle, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right hand edge or curb, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until the police or fire department vehicle shall have passed.

(b) It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in

response to a fire alarm closer than one block or to drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

SECTION 622. Passing Street Cars.

(a) The driver of a vehicle shall not overtake and pass upon the left any street car proceeding in the same direction, whether actually in motion or temporarily at rest, when a travelable portion of the highway exists to the right of such street car.

(b) The driver of a vehicle overtaking any railway, interurban or street car stopped or about to stop for the purpose of receiving or discharging any passenger shall bring such vehicle to a full stop not closer than ten feet to the nearest exit of such street car and remain standing until any such passenger has boarded such car or reached the adjacent sidewalk, except that where a safety zone has been established a vehicle may be driven past any such railway, interurban or street car at a speed not greater than ten miles per hour and with due caution for the safety of pedestrians.

SECTION 623. Driving Thru Safety Zone Prohibited.

The driver of a vehicle shall not at any time drive thru or over a safety zone as defined in section 26 of this act.

SECTION 624. Stopping on Highway.

(a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any highway, outside of a business or residence district, when it is practicable to park or leave such vehicle standing off of the paved or improved or main traveled portion of such highway; provided, in no event shall any person park or leave standing any vehicle, whether attended or unattended, upon any highway unless a clear and unobstructed width of not less than fifteen feet upon the main traveled portion of said highway opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of 200 feet in both directions upon such highway.

(b) Whenever any peace officer shall find a vehicle standing upon a highway in violation of the provisions of this section, he is hereby authorized to move such vehicle or require the driver or

18 person in charge of such vehicle to move such vehicle to a position
19 permitted under this section.

20 (c) The provisions of this section shall not apply to the driver
21 of any vehicle which is disabled while on the paved or improved or
22 main traveled portion of a highway in such manner and to such
23 extent that it is impossible to avoid stopping and temporarily
24 leaving such vehicle in such position.

1 **SECTION 625. Parking in Front of Fire Hydrant, Fire Station or**
2 **Private Driveway.**

3 No person shall park a vehicle or permit it to stand, whether
4 attended or unattended, upon a highway in front of a private
5 driveway nor within fifteen feet in either direction of a fire hydrant
6 or the entrance to a fire station nor within twenty-five feet from
7 the intersection of curb lines or if none then within fifteen feet of
8 the intersection of property lines at an intersection of highways.

1 **SECTION 626. Motor Vehicle Left Unattended. Brakes to be set**
2 **and Engine Stopped.**

3 No persons having control or charge of a motor vehicle shall
4 allow such vehicle to stand on any highway unattended without
5 first effectively setting the brakes thereon and stopping the motor
6 of said vehicle and when standing upon any grade, without turning
7 the front wheels of such vehicle to the curb or side of the highway.

1 **SECTION 627. Driving on Mountain Highways.**

2 The driver of a motor vehicle traversing defiles, canyons or
3 mountain highways shall hold such motor vehicle under control
4 and as near the right-hand side of the highway as reasonably pos-
5 sible and upon approaching curves where the view is obstructed
6 within a distance of two hundred feet along the highway shall give
7 audible warning with a horn or other warning device.

Note to Sections 624 and 625.

Otherwise than as provided in these two sections, no attempt has been made
in this draft to regulate the parking of vehicles. Provisions similar to this
section are found in the vehicle statutes of Ark., Cal., Colo., Conn., Idaho, Ky.,
Mich., N. Car., Ohio, Ore., Penn., Utah, Yt., Wash., W. Va., and possibly in
additional states.

1 **SECTION 628. Coasting Prohibited.**

2 The driver of a motor vehicle when traveling upon a down grade
3 upon any highway shall not coast with the gears of such vehicle in
4 neutral.

1 **SECTION 629. Duty to Stop in Event of Accident.**

2 (a) The driver of any vehicle involved in an accident resulting
3 in injuries or death to any person or damage to property shall im-
4 mediately stop such vehicle at the scene of such accident and any
5 person violating this provision shall upon conviction be punished
6 as provided in Section 905 of this act.

7 (b) The driver of any vehicle involved in any such accident
8 shall also give his name, address, operator's or chauffeur's license
9 number and the registration number of his vehicle to the person
10 struck or the driver or occupants of any vehicle collided with and
11 shall render to any person injured in such accident reasonable
12 assistance including the carrying of such person to a physician or
13 surgeon for medical or surgical treatment if it is apparent that such
14 treatment is necessary or is requested by the injured person and it
15 shall be unlawful for any person to violate this provision.

1 **SECTION 630. Duty to Report Accidents.**

2 The driver of any vehicle involved in an accident resulting in
3 injuries or death to any person or property damage to an apparent
4 extent of ten dollars or more shall within twenty-four hours for-
5 ward a report of such accident to the department upon the appro-
6 priate form provided by it except that when such accident occurs
7 within an incorporated city or town such report shall be made
8 within twenty-four hours to the police headquarters in such city or
9 town.

Note to Sec. 629.

 The vehicle statutes in practically every state imposes the duty to stop and give name and address in the event of accident and severe penalties are prescribed for violations of such duty.

Note to Sec. 630.

 The majority of states require reports of accidents generally limited to serious accidents or those resulting in death or personal injuries. The draft in Title II requires the Department to provide suitable forms for accident reports for distribution and to tabulate and publish accident statistics.

Every police department shall forward a copy of every such report so filed with it to the Department.

[SECTION 631. Garage Keeper to Report Damaged Vehicles.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a serious accident or struck by any bullet shall report to the nearest police station or sheriff's office within twenty-four hours after such motor vehicle is received giving the engine number, registration number and the name and address of the owner or operator of such vehicle.]

SECTION 632. Drivers of State, County and City Vehicles Subject to Provisions of the Act.

The provision of this act applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by this state or any political subdivision thereof or of any city, town or district subject to such specific exceptions as are set forth in this act.

SECTION 633. Powers of Local Authorities.

Local authorities except as expressly authorized by Sections 602 and 620 shall have no power or authority to alter any speed limitations declared in this act or to enact or enforce any rule or regulation contrary to the provisions of this act, except that local authorities shall have power to provide by ordinance for the regulation of traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous and may prohibit other than one way traffic upon certain highways and may regulate the use of the highways by processions or assemblages.

SECTION 634. This Act Not to Interfere with Rights of Owners of Real Property with Reference Thereto.

Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use nor from requiring other or different or additional conditions than those specified in this act or otherwise regulating such use as may seem best to such owner.

TITLE VIII

HIGHWAY TRAFFIC SIGNS

1 **SECTION 700. Uniform Marking and Signing of Highways.**

2 (The State Highway Commission) is hereby authorized to
3 classify, designate and mark both intrastate and interstate high-
4 ways lying within the boundaries of this state and to provide a
5 uniform system of marking and signing such highways under the
6 jurisdiction of this state and such system of marking and signing
7 shall correlate with and so far as possible conform to the system
8 adopted in other states.

1 **SECTION 701. Local Traffic Signs.**

2 Local authorities in their respective jurisdictions may cause
3 appropriate signs to be erected and maintained designating resi-
4 dence and business districts, highway and steam or interurban
5 railway grade crossings and such other signs as may be deemed
6 necessary to carry out the provisions of this Act.

1 **SECTION 702. Other Than Official Signs Prohibited.**

2 No unauthorized person shall erect or maintain upon any high-
3 way any warning or direction sign, marker, signal or light in imi-
4 tation of any official sign, marker, signal or light erected under the
5 provisions of this Act and no person shall erect or maintain upon
6 any highway any traffic or highway sign or signal bearing thereon
7 any commercial advertising provided nothing in this section shall
8 be construed to prohibit the erection or maintenance of signs,
9 markers, or signals bearing thereon the name of an organization
10 authorized to erect the same by the (State Highway Commission)
11 or any local authority as defined in this Act.

TITLE IX

MISCELLANEOUS OFFENSES

1 **SECTION 800. Driving Vehicle Without Owner's Consent.**

2 Any person who shall drive a vehicle not his own, without the
3 consent of the owner thereof and in the absence of the owner, and
4 with intent to temporarily deprive the owner thereof of his posses-
5 sion of such vehicle, without intent to steal the same, shall be
6 guilty of a misdemeanor. The consent of the owner of a vehicle to

7 its taking or driving shall not in any case be presumed or implied
8 because of such owner's consent on a previous occasion to the tak-
9 ing or driving of such vehicle by the same or a different person.
10 Any person who assists in, or is a party or accessory to or an ac-
11 complice in, any such unauthorized taking or driving, shall also be
12 guilty of a misdemeanor.

1 **SECTION 801. Receiving or Transferring Stolen Vehicle.**

2 Any person who with intent to procure or pass title, to a motor
3 vehicle which he knows or has reason to believe has been stolen,
4 shall receive or transfer possession of the same from or to another,
5 or who shall have in his possession any motor vehicle which he
6 knows or has reason to believe has been stolen, and who is not an
7 officer of the law engaged at the time in the performance of his
8 duty as such officer, shall be guilty of a felony and upon conviction
9 shall be punished as provided in Section 906 of this act.

1 **SECTION 802. Injuring Vehicle.**

2 Any person who shall individually, or in association with one or
3 more others wilfully break, injure, tamper with or remove any part
4 or parts of any vehicle for the purpose of injuring, defacing or
5 destroying such vehicle, or temporarily or permanently preventing
6 its useful operation, or for any purpose against the will or without
7 the consent of the owner of such vehicle or who shall in any other
8 manner wilfully or maliciously interfere with or prevent the run-
9 ning or operation of such vehicle, shall be guilty of a misdemeanor.

1 **SECTION 803. Tampering with Vehicle.**

2 Any person who shall without the consent of the owner or person
3 in charge of a vehicle climb into or upon such vehicle with the in-
4 tent to commit any crime, malicious mischief, or injury thereto, or
5 who while a vehicle is at rest and unattended shall attempt to
6 manipulate any of the levers, and starting crank or other device,

Note to Sec. 800.

Vehicle statutes in 24 states prohibit driving another's vehicle without con-
sent of owner and variously define the offense as misdemeanor, felony, larceny,
and prescribe different penalties.

Note to Sec. 801.

This is a usual provision particularly in those states having certificate of
title laws.

7 brakes or mechanism thereof or to set said vehicle in motion, shall
8 be guilty of a misdemeanor, except that the foregoing provisions
9 shall not apply when any such act is done in an emergency in
10 furtherance of public safety or by or under the direction of an
11 officer in the regulation of traffic or performance of any other
12 official duty.

1 **SECTION 804. Putting Glass, etc., on Highway Prohibited.**

2 Any person who throws or deposits any glass bottle, glass, nails,
3 tacks, hoops, wire, cans or any other substance likely to injure any
4 person, animal or vehicle upon any highway, shall be guilty of a
5 misdemeanor.

1 **SECTION 805. Injuring Signs.**

2 Any person who shall deface, injure, knock down or remove any
3 sign posted as provided in this act shall be guilty of a misdemeanor.

TITLE X

PENALTIES

1 **SECTION 900. Penalty for Misdemeanor.**

2 (a) It shall be unlawful and constitute a misdemeanor for any
3 person to violate any of the provisions of this act unless such vio-
4 lation is by this act or other law of this state declared to be a
5 felony.

6 (b) Unless another penalty is in this act or by the laws of this
7 state provided, every person convicted of a misdemeanor for the
8 violation of any provision of this act shall be punished by a fine of
9 not less than one dollar nor more than five hundred dollars or by
10 imprisonment in the county or municipal jail for not less than one
11 day nor more than six months, or by both such fine and imprison-
12 ment.

1 **SECTION 901. Limited Penalties for Misdemeanors Committed**
2 **Under Titles VI and VII of Act.**

3 Every person convicted of a misdemeanor for a violation of any
4 of the provisions of Title VI or VII of this act for which another

Note to Sec. 803.

Similar provisions are included in vehicle statutes in 18 states.

Note to Sec. 900.

The subject matter of this title is under consideration at this date (Aug. 1)
by the "Committee on Enforcement of the National Conference on Street and
Highway Safety."

penalty is not provided shall, for a first conviction thereof within one year, be punished by a fine of not less than five dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than one nor more than ten days; for a second such conviction within one year, such person shall be punished by a fine of not less than ten dollars nor more than two hundred dollars or by imprisonment in the county jail for not less than one nor more than twenty days, or by both such fine and imprisonment; upon a third or subsequent conviction within one year, such person shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than six months, or by both such fine and imprisonment.

SECTION 902. Penalty for Driving While License Suspended or Revoked.

Every person who is convicted of a violation of section 407 of this act applicable to persons driving while license is suspended or revoked shall be punished by imprisonment in the county or municipal jail for not less than five days or by fine or imprisonment in addition thereto, in all not exceeding the maximum authorized upon conviction of a misdemeanor under this act.

SECTION 903. Penalty for Driving While under the Influence of Intoxicating Liquor or Narcotic Drugs.

Every person who is convicted of a violation of section 600 of this act relating to habitual users of narcotic drugs and driving while under the influence of intoxicating liquor or narcotic drugs shall be punished by imprisonment in the county or municipal jail for not less than thirty days or more than one year or by fine of not less than one hundred dollars nor more than one thousand dollars or by both such fine and imprisonment.

SECTION 904. Penalty for Reckless Driving.

Every person convicted of reckless driving under section 601 of this act shall be punished by imprisonment in the county or municipal jail for a period of not less than five days nor more than ninety days or by fine of not less than twenty-five dollars nor more than five hundred dollars or by both such fine and imprisonment.

7 The court may suspend the license of the person so convicted for
8 not more than six months.

1 **SECTION 905. Penalty for Failure to Stop in Event of Accident.**

2 Every person convicted of violating subdivision (a) of section
3 629 relative to the duty to stop in the event of certain accidents
4 shall be punished by imprisonment in the county or municipal jail
5 for not less than thirty days nor more than one year or in the state
6 prison for not less than one nor more than five years or by fine of
7 not less than one hundred dollars nor more than five thousand
8 dollars or by both such fine and imprisonment. The court shall
9 suspend the license of the person so convicted for not less than 90
10 days nor more than one year.

1 **SECTION 906. Penalty for Felony.**

2 Any person who shall be convicted of a violation of any of the
3 provisions of this act herein or by the laws of this state declared to
4 constitute a felony shall, unless a different penalty is prescribed
5 herein or by the laws of this state, be punished by imprisonment
6 in the state prison for a term not less than one year nor more than
7 five years, or by a fine of not less than five hundred dollars nor
8 more than five thousand dollars, or by both such fine and im-
9 prisonment.

TITLE XI

PROCEDURE UPON ARREST, REPORTS, DISPOSITION OF FINES AND FORFEITURES

1 **SECTION 1000. Appearance Upon Arrest for Misdemeanor.**

2 (a) Whenever any person is arrested for a violation of any pro-
3 vision of this act punishable as a misdemeanor the arresting
4 officer shall, except as otherwise provided in this section, take the
5 name and address of such person and the license number of his
6 motor vehicle and issue a summons or otherwise notify him in
7 writing to appear at a time and place to be specified in such sum-
8 mons or notice, such time to be at least five days after such arrest
9 unless the person arrested shall demand an earlier hearing and such
10 person shall if he so desire have a right to an immediate hearing
11 or a hearing within twenty-four hours at a convenient hour and
12 such place to be before (a magistrate within the township or county

wherein such offense was committed). Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place forthwith, release him from custody.

Any person refusing to give such written promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate.

Any person who wilfully violates his written promise to appear, given in accordance with this section shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) The provisions of subsection (a) of this section shall not apply to any person arrested and charged with an offense causing or contributing to an accident resulting in injury or death to any person nor to any person charged with reckless driving or driving in excess of thirty miles per hour within a business or residence district or in excess of forty-five miles per hour outside of a business or residence district nor to any person charged with driving while under the influence of intoxicating liquor or narcotic drugs nor to any person whom the arresting officer shall have good cause to believe has committed any felony, and the arresting officer may take such person forthwith before the nearest or most accessible magistrate.

(c) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction.

SECTION 1001. Report of Convictions to be Sent to Department.

(a) Every (justice of the peace or police judge or court) in this state shall keep a full record of every case in which a person is charged with violation of any provision of this act, and in the event that such person is convicted or that his bail is forfeited, an abstract of such record shall be sent forthwith by the (justice of the peace or police judge or court) to the Department.

Note to Sec. 1000.

The subject matter of this title is under consideration by committees of the National Conference on Street and Highway Safety and final reports and recommendations are not available at this date (Aug. 1).

(b) Abstracts required by this section shall be made upon forms prepared by the Department and shall include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, the amount of the fine or forfeiture, as the case may be, and every such abstract shall be certified by the (justice of the peace, police judge or clerk of such police court) as a True abstract of the record of the court.

(c) Each clerk of any court of record of this state shall also, within ten days after any final judgment of conviction of any violation of any of the provisions of this act, send to the Department a certified copy of such judgment of conviction. Certified copies of the judgment shall also be forwarded to the Department upon conviction of any person of manslaughter or other felony in the commission of which a vehicle was used. The said Department shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

(d) Failure, refusal or neglect to comply with any of the provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom.

SECTION 1002. **Fines and Forfeitures.**

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this act constituting a misdemeanor shall be deposited in the treasury of the county, city or town maintaining the court wherein such conviction or forfeiture was had in a special fund to be known as the "street improvement fund," which is hereby created and which shall be used exclusively in the construction, maintenance and repair of public highways, bridges and culverts within such respective jurisdictions.

Failure, refusal or neglect to comply with any of the provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom.

TITLE XII

REGISTRATION, LICENSE AND OTHER FEES

SECTION 1100. **Registration Fees.**

There shall be paid to the Department for the registration of motor vehicles, trailers and semi-trailers, fees according to the following schedule:

- 1 SECTION 1101. **Exempt from Registration Fees.**
1 SECTION 1102. **When Fees Delinquent; Penalties.**
1 SECTION 1103. **Operator's and Chauffeur's License Fees.**
1 SECTION 1104. **Disposition of Registration and License Fees.**

TITLE XIII

SHORT TITLE AND EFFECT OF ACT

- 1 SECTION 1200. **Short Title.**
2 This act may be cited as the Uniform Vehicle Act.
1 SECTION 1201. **Uniformity of Interpretation.**
2 This act shall be so interpreted and construed as to effectuate
3 its general purpose to make uniform the law of those states which
4 enact it.
1 SECTION 1202. **Repeal.**
2 The (existing motor vehicle statute) is hereby repealed except
3 (Revenue or other provisions in existing laws not embraced in
4 present act) and all acts or parts of acts inconsistent with the pro-
5 visions of this act are hereby repealed.
1 SECTION 1203. **Time of Taking Effect.**
2 This act shall take effect from and after its passage.

Note to Sec. 1100.

The revenue provisions of the vehicle statutes vary both as to character of fees imposed and amounts and as such revenue measures have no relation to safety on highways the draft does not suggest what fees shall be imposed.

This title in outline is included upon request that the draft indicate the appropriate place wherein registration and license fees may be incorporated by each state upon adopting the Uniform Act.

Note to Sec. 1101.

Vehicle statutes generally exempt vehicles owned by the state or political subdivision thereof from payment of fees but require that all such vehicles shall be registered and display number plates usually bearing a distinct symbol.

Note to Secs. 1202 and 1203.

It may be desirable to alter these two sections to provide that the Titles on Registrations and Operators and Chauffeurs licenses shall go into effect on the first of January next succeeding the adoption of the Act and that provisions of existing laws on these subjects be repealed on such first of January. Other provisions of the act might take effect immediately.

Note to Sec. 1203.

In states having constitutional provisions requiring that no act shall go into effect until after a specified time, this section should be modified.

REPORT OF COMMITTEE ON A PRIMARY ACT FOR FEDERAL OFFICERS

To the National Conference of Commissioners on Uniform State Laws:—

As pointed out in the report of this Committee made in 1924, this is a subject which has a strong political aspect and concerning which there is a wide divergence of opinion.

Pursuant to the instructions given to the Committee by the National Conference at Philadelphia in 1924 and reaffirmed by the Executive Committee at Chicago in February 1925, the work of the Committee has been continued and a tentative draft of an Act is submitted herewith.

The Committee has not had an opportunity to meet as a whole for the purpose of discussing this Act. It was prepared by the Chairman and submitted to the Committee but replies were not received, excepting from one of the Commissioners.

The matter has, however, received consideration from Prof. Charles E. Merriam, of the University of Chicago, to whom the matter was also submitted and with whom the Committee will doubtless further confer before a final draft is submitted.

About the most that can be said for the matter at this time is that the draft submitted herewith may provoke discussion and lead to a definite expression from the Conference with reference to the general form of Bill which will meet with its approval.

While the problem is a very difficult one and is of such a nature as to make discussion of the matter on its merits almost impossible, still there can be no serious doubt about the advisability of legislation of this sort. There can be but little doubt that the primary system has deterred many capable men from becoming candidates for office.

Since that is true and since it is also probable that the primary system will remain in vogue for some time, then every effort to simplify the system and remove from it those features which prevent

the presentation of desirable men as candidates for office is a step in the right direction.

It is hoped that the matter will receive the careful consideration of the Conference and that the Committee may have the benefit of its suggestions in order that a more complete draft may be presented to the next Conference.

Respectfully submitted,

A. H. RYALL

Chairman.

PROPOSED DRAFT
OF
A UNIFORM ACT FOR FEDERAL OFFICERS

SECTION 1. A primary election for the purpose of nominating candidates for the office of United States Senator from this state and for the purpose of selecting delegates to the National Conventions held for the purpose of nominating candidates for the office of President of the United States shall be held on the first Tuesday of April in each year in which presidential electors are elected or chosen and in each year in which a United States Senator shall be elected at the general election next following said first Tuesday in April.

SECTION 2. Excepting as herein otherwise specifically provided, all of the provisions of the general primary election laws of this state now or hereafter in force shall apply to and govern the calling, holding and canvassing of said election and the rights, duties and obligations of the several candidates thereat.

SECTION 3. Anything in the election laws of this state to the contrary notwithstanding, the following provisions shall apply to and govern the primary elections herein provided for, viz:

(a) Each candidate may expend for election expenses a sum not exceeding 10c for each inhabitant of this state as determined by the last preceding federal census.

(b) Within two months after said primary election each candidate or some one on his behalf having knowledge of the facts shall make and file in the office of the Secretary of State a verified statement showing in reasonable detail all expenditures made by said candidate on account of or in connection with his candidacy in this state, which said statement shall be in lieu of any statement or report of expenditures required by any laws of this state.

(c) No provision of any of the election laws of this state requiring any candidate to accept challenges to debate or otherwise appear before the electorate shall be applicable to any candidate for the office of President or Vice-President of the United States.

SECTION 4. (Provision should here be made for party enrollment. The difficulties incident to the drafting of a satisfactory provision covering that question are recognized.)

SECTION 5. Definitions.

"Expenses" means all sums spent for traveling expenses and hotel expenses of others than the candidate, advertising, postage, printing and clerical help.

SECTION 6. (Insert Uniformity of Interpretation clause.)

SECTION 7. This act may be cited as the Uniform Primary Act for Federal Officers.

SECTION 8. This act shall take effect —————.

Committee:

Arthur H. Ryall, *Chairman.*

Chester I. Long

Hazen I. Sawyer

George E. Beers

Gurney E. Newlin

Alexander Armstrong

W. H. Folland

George B. Young

Ex-officio:

Nathan William MacChesney, *President*

SUPPLEMENTAL REPORT OF COMMITTEE ON UNIFORM PRIMARY ACT FOR FEDERAL OFFICERS

To the National Conference of Commissioners on Uniform State Laws:

As supplemental to the report of this Committee published herewith, it is believed that the attached letter from Professor Charles E. Merriam of the University of Chicago and also the dissertation prepared by Dr. Louise Overacker contain much information which would be of value and interest to the conference in considering this question and for that reason is made a part of the report of the Committee.

Respectfully submitted,

A. H. RYALL,

Chairman.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF POLITICAL SCIENCE

July 28, 1925.

Mr. A. H. Ryall,
Escanaba, Mich.

My dear Mr. Ryall:

I have received your outline of a proposed Uniform Act for Federal Officers, and have the following comment to make. In so far as the Act makes provision for a uniform date for the choice of the delegates to the national convention, it seems to me very useful. I see no equally good reason, however, why the United States Senators or Congressmen should be chosen on a uniform day, and there are many local situations where this is probably not desirable or at any rate convenient.

Section 1 seems to me altogether too general and vague as an Act for practical use in any state. Considerable detail is necessary in order to show how delegates shall be nominated and elected, and also whether they are to be chosen by districts or at large, whether they are to be instructed to vote for specific candidates,

whether the names of candidates are to appear separately or as pledges of the delegates.

Perhaps the purpose is only to indicate a uniform day leaving the detail to the various states, in which case these objections do not apply.

Section 3 provides for a limitation of campaign expenses and for public statement of expenses. The publicity features of the draft contain desirable elements, although in practice these laws are so generally evaded that they have little real force and in reality, in many cases, they merely penalize an honest man. These statements take no account of the enormous advantage accruing from the use of the political machine, of controlled or friendly newspapers, or of semi-political organizations which often carry on the candidate's battle for him in whole or in part. How the limitation of 10c per inhabitant is arrived at I do not know, but I suggest its doubtful expediency in this case. I have given a good deal of study to this subject for a number of years and have not found any specific limitations of any particular value, except as they may discriminate against an honest man, and enable one who is a little evasive to crawl through.

Section 4 provides for party enrollment regarding which there is no general agreement among authorities on the subject. Since there are many who believe in the open primary although in the minority, and since there are many differences among those who believe in party registration, I suggest it would be desirable to omit this section.

Section 5 covers a definition of expenses, which from my point of view would be very difficult to make. This section goes along with Section 3 providing for publicity and limitation of expenditures.

In brief my suggestion is that the act be limited to a uniform day for the choice of delegates to the national convention, or for the expression of preference among candidates for President, leaving the detail of this to the various states. The only addition I would suggest is the outlining of alternative forms of selecting delegates or obtaining preferences, if this is deemed desirable.

Hoping these suggestions may be of some value to you, I am

Sincerely yours,
CHARLES E. MERRIAM.

THE PRESIDENTIAL PRIMARY

ABSTRACT OF A DISSERTATION

Submitted to the Faculty of the

Graduate School of Arts and Literature of the University of

Chicago

in Candidacy for the Degree of

Doctor of Philosophy

In the Department of Political Science

By

LOUISE OVERACKER

INTRODUCTION

Since 1905, twenty-five states have passed laws providing for the direct election of delegates to the national convention, for instructing the delegates through a presidential preference vote, or for both. This movement was part of a general movement for more democratic control of American government which characterized the period 1900-1914. It forms part of two interlocking problems: that of the nomination and election of the president; and that of securing responsible party government. It is not the purpose of this study to make an exhaustive analysis of either presidential nominations and elections on the one hand, or of primary elections on the other; what is attempted is an analysis of the existing presidential primary laws, an appraisal of them as instruments of democratic control as judged by their effect upon popular control of the election of the president and upon party responsibility, and an estimate of the possible development of the presidential primary as an instrument of popular control either through state or national action.

In carrying out this study particular emphasis has been placed upon collecting the statistical data which are made the basis of quantitative measurement wherever possible, and upon the use of newspaper material. At least one, and usually two, papers have been used for each state in which presidential primary laws have been put into effect and this material has furnished valuable

sidelights upon the reasons for the passage of the laws, as well as their actual operation.

An examination of the circumstances attending the passage of the presidential primaries shows that the movement was distinctly "progressive" in its inception but that the laws were often emergency measures, passed to meet a particular situation, and were often given but hasty consideration or amended into ineffectiveness because of the necessity for compromise with conservative groups. Efforts to repeal the presidential primary have been successful in Minnesota, Iowa, and Vermont, and have failed in Montana, Nebraska, and Indiana.

Analysis of State Laws and their Operation

An analysis of the existing laws shows great variation in important provisions and in the effectiveness of these provisions. The dates of the primaries vary from March to June, but a tendency is apparent toward the elimination of the earliest and of the latest dates. Late April or early May would seem to be the most desirable time for holding the primary. It is some times held in conjunction with the state primary and some times held separately. Holding the two primaries jointly is less expensive to the state and tends to result in a larger vote, and the evidence available does not indicate that holding the primaries in conjunction results in any greater confusion of state and national issues, or that objection has been made to it because of the long state campaign which results. Where the state primary ballot is "short," therefore, it is feasible to combine the two primaries.

The names of candidates for president or for delegates may be put upon the ballot upon their personal declaration of candidacy or upon a petition filed by a certain number of political supporters. Provisions for personal declarations by presidential candidates should be eliminated as it forces reluctant candidates either to announce themselves as definite contenders for the nomination or be kept out of the race. If the plan is adopted of eliminating the preference vote and of having the names of presidential aspirants put upon the ballot only in conjunction with the candidacy of delegates who favor them for the presidency, the difficulty may be solved without resorting to the drastic practice of compelling a

presidential candidate to run. In actual practice "lists" or "groups" of candidates for delegate have often been proposed by unofficial conventions or caucuses of the party leaders. Such practices are highly desirable for the point of view of securing party responsibility. On the other hand to require proposal conventions by law seems unnecessary and might result in an undesirable rigidity in the system. Presidential candidates should be permitted to disavow any delegate whose support he considers detrimental to his own interests.

All delegates are elected at large in some states, while in others they are elected partly at large and partly from districts. The election of all delegates at large has tended to bring about clear cut, state wide contests and to promote responsible party leadership, as well as to insure harmony between the preference vote for president and the personal preferences of the delegates chosen. It would be objected to in those states where protesting minorities within the party are identified with certain geographical sections and in those states where a very large ballot would be demanded. The advantages of the election of delegates at large might be secured without sacrificing the representation of party minorities by the use of the list system of proportional representation or a modification of it.

The most vital problem to be met by the presidential primary is that of giving the states control over the action of their delegates in the convention. Our experience with the presidential primary indicates conclusively that real control can be secured only if the personal preferences of the delegates and their instructions harmonize. Such harmony is not obtained where the delegates are elected with no other safeguard; where there is a preference vote and the delegates are selected by a state convention; where there is a preference vote coupled with the election of delegates whose preferences are unknown at the time of the primary; or where there is a preference vote coupled with the election of delegates who have stated a willingness to support the popular preference in the convention. It may be obtained by coupling a preference vote with the election of delegates whose preferences are known at the time of the primary only if the ballot is very carefully drawn. It is

sure to be obtained by the elimination of the preference, the ballot containing the names of candidates grouped under their presidential preferences; or by retaining the preference vote, eliminating the vote for delegates and giving the presidential candidate or his representatives the power to select the delegates.

The form of the ballot used in the presidential primaries has been responsible for much confused voting and a resulting lack of harmony between presidential preference votes and the individual preferences of the delegates selected. The names of delegates often appear upon the ballot without any relation to their preferences for president, they are usually arranged alphabetically, rather than in groups according to the candidate favored, and often the names are rotated by congressional districts. It is recommended that the preferences of the delegates be clearly indicated on the ballot and that the arrangement be as follows:

1. If all delegates are to be voted for by the state at large (either with or without the use of proportional representation) the delegates should be grouped together under the name of the candidate for president whom they prefer and the voter should be permitted to vote for the group with one crossmark if he sees fit. This form is essentially that used in California at present.
2. If it is desired to adopt proportional representation and yet eliminate printing the names of all candidates for delegate upon the ballot, the names of only the proposers of the list of delegates need be printed upon the ballot under the name of the candidate for president whom they prefer. The elector would then vote only for his presidential preference.
3. If the district plan of electing delegates is retained, the delegates at large and the district delegates favoring the same presidential candidate should be grouped under the name of the presidential candidate whom they prefer and opportunity should be afforded to vote for all delegates at large with one crossmark and for both district delegates with one crossmark.
4. If both the preference vote and the election of delegates is retained the delegates favoring each presidential aspirant should appear in groups under his name.

The experience with the presidential primary shows that in some cases where the "open" form is used the voters of one party have participated in the primary of the other. No final judgment

can be passed upon the value of the open versus the closed forms from the operation of the presidential primary alone; this is a question which must be settled in the light of the experience with the state as well as the presidential primary.

Provision for the popular selection of presidential electors and alternate delegates in the primaries, as well as for a preference vote for vice-president, serve no useful purpose, violate the short ballot principle, and should be eliminated.

There are cases where the choice of the presidential primary is a *minority* choice, but it is doubtful if this difficulty could be eliminated by provisions for second-choice votes. It is a difficulty which could be met by either of the schemes for proportional representation suggested above.

The Effect of the Primaries

The presidential primaries have rarely resulted in well defined divisions on national questions, interest centering in state issues or factional contests for state or district leadership. But they have performed a useful function in bringing into the light state wide differences of opinion which have national significance and in making possible the open settlement of questions of policy and of leadership which were formerly settled in the dark of the unofficial conference. Until the presidential primary is extended to all of the strategic states, presidential primary contests will probably continue to have little national significance, but even under existing conditions holding all of the primaries at the same time might bring to the surface latent national issues. The primaries have brought into use in the pre-primary campaigns all of the intricate organization, elaborate publicity, and clever technique which characterize the campaign preceding a general election. A certain amount of such organization and publicity is essential but it is extremely doubtful whether the more elaborate publicity campaigns are necessary or effective. The present arrangement of primary dates encourages the use of the methods of the itinerant circus and uniformity of the primary dates would have a salutary effect upon pre-primary campaigns. The regular party organizations frequently throw their support to one candidate or another

in the primary, but this support does not insure success to the candidate supported.

In order to estimate the popular interest in the presidential primaries the vote has been compared to that cast at the general election, and to that cast in the state primary of the same year. The vote cast in the presidential primary is much lower than that cast in the general election, ranging from about one-third to one-half, taking the states as a whole. Further analysis of these figures reveals the following points: that the size of the presidential primary vote varies greatly from campaign to campaign, the highest vote having been cast in 1912 and the lowest in 1916; that the Republican vote tends to be much larger than the Democratic vote; that the size of the vote varies from state to state, Wisconsin, Oregon, South Dakota, Nebraska, North Dakota and California casting from 50% to 60% of the general election vote, while New York, North Carolina, Vermont, Montana and New Jersey habitually cast less than 30%; that there is a relationship between the geographical district and the size of the vote cast, it being greatest in the middle and far West. A comparison between the vote in the presidential primary and that in the state primary shows clearly that the interest in the presidential primaries compares favorably with that in the state primaries, about 80% of the people who vote in the state primaries habitually voting in the presidential primary, while in thirteen cases the vote in the presidential primary has been larger than that cast in the state primary.

The cost of the primaries is borne partly by the state and partly by the candidates. The cost to the state is greater per vote than the cost of the state primary. This cost could be reduced in many cases by holding the presidential and the state primaries in conjunction, or providing that no election need be held if there were no contest. So far as the cost to the candidate is concerned it appears that the cost to the delegates is insignificant; that the expenditures of the candidates for the presidential nomination vary greatly but that lavish expenditure does not control the result of the primaries; that there have been no charges of corrupt expenditures in the primary campaigns as there have been in the convention states; that the problem of the use of money in presi-

dential primary campaigns can best be approached through the regulations of contributions rather than expenditures, and by national rather than state action.

So far as the general effect of the primary is concerned it cannot be said that the vote in the presidential primaries has ever dictated the nomination; but it has materially affected national politics; it has eliminated the disgrace of the contesting delegation; it has provided an orderly way of settling contests over party leadership; it has forced candidates into the open; and the delegates so chosen have shown less inclination to climb on the bandwagon than delegates chosen by state conventions. The effectiveness of the presidential primary is limited by the fact that it is not in operation in all of the states, or a considerable majority of them.

Possible Lines of Development of the Presidential Primary

An analysis of the arguments raised against the presidential primary shows that those having the most weight are an outgrowth of technical defects in the laws, especially in regard to the method of controlling the delegates, or of the limitation of the laws to less than half the states. The problem of rendering the presidential primary a more effective instrument of control is largely a problem of redrafting existing laws, of securing uniformity in a few essential respects, and of extending these laws to other states. The problem of redrafting is relatively simple, and in the light of certain tendencies toward uniformity already exhibited, and of the possible action by the Commissioners on Uniform State Laws, uniformity in certain respects may be attained. The extension of the primary to other states is more difficult for until the primary is extended to more states it can be effective only in rare cases, and yet the ineffectiveness of its operation at present is the chief reason why it is not extended to other states. This impasse will probably continue until there arises some deep, nation wide issue like that of 1912 to stimulate the rank and file of the party to fight for control of their delegations.

The difficulty of controlling the proceedings of the national conventions, of effectively controlling campaign expenditures and of extending the primary to all of the states have led many observers to suggest plans for a national primary. Some of these plans would retain the convention but limit its action, some would

retain it but reverse the usual order, making the convention the proposal body and the primary the ratifying body, while some would eliminate the convention entirely and substitute a direct, nation wide primary. The problems involved in drafting such a law are extremely complex. Any plan adopted will raise the questions of state versus national control, negro voting in the South, tests of party affiliation, a definition of a political party, and fixing a date that will fit in with the election calendars of all of the states. Any plan including the retention of the convention raises the question whether population or voting strength shall be the basis of representation, whether state lines shall be retained in apportioning delegates and in voting in the convention, and whether the vote of a plurality or a majority of all of the delegates, or of a majority of the delegates in a majority of the states is to be insisted upon for the nomination. Any plan involving nomination by means of a direct primary vote raises such questions as: How shall names be proposed? Shall a simple plurality vote be sufficient to nominate or shall a majority in a majority of states be required? How can minority choices be eliminated? How can a platform be drawn?

The difficulty of drafting a satisfactory national law, of passing the constitutional amendment which would probably be a prerequisite to such action, the opposition which would be raised to further "encroachment" upon the sphere of the states, and the fact that discussion of direct nomination immediately raises a host of collateral problems make it unlikely that any national action will be taken in the near future. On the whole the outlook for extension of the presidential primary through state rather than national action seems brighter.

In conclusion it must be pointed out that the value of the presidential primary must be judged largely by the possible alternatives. Those states which have effective presidential primary laws have had the satisfaction of a fair settlement of questions connected with state leadership and of control over their delegations in the convention. These inconspicuous but important advantages will not be lightly thrown aside for the uncertainties of the convention method of selecting delegates, or of the unofficial party primary, with the resulting opportunities for pitched battles and contesting delegations.

REPORT OF COMMITTEE ON AN ACT TO REGULATE THE SALE AND POSSESSION OF FIREARMS

To the National Conference of Commissioners on Uniform State Laws:

The special committee upon a Uniform Act to Regulate the Sale and Possession of Firearms was appointed at the Minneapolis meeting of the National Conference in 1923. A first report was made in Philadelphia in 1924 and at that time, pursuant to the recommendations of the committee, it was continued for further consideration of the subject and "to prepare and report a tentative draft of a proposed uniform act at the next meeting of this Conference." (Handbook 1924 p. 173). The committee accordingly begs leave to present herewith its second report and the First Tentative Draft of a proposed uniform act on the subject.

UNIFORM REVOLVER LAW BASIS OF PROPOSED ACT

The first report of the committee indicated the timeliness of firearms legislation and how the matter had been brought to the attention of the National Conference in 1923 by the United States Revolver Association (*Ibid.* p. 711), which had drafted and was sponsoring a proposed uniform law, printed in full in the committee's report (*Ibid.* p. 728 *et seq.*) together with the argument of the Association in favor thereof (*Ibid.* p. 716, *et seq.*). The Capper Bill introduced in the United States Senate September 20, 1922, printed in full in the former report (*Ibid.* p. 743 *et seq.*) adopted almost verbatim the text of the Revolver Association law as a proposed law for the District of Columbia. While the Capper Bill did not reach final consideration and so failed of passage, it will no doubt be again introduced in the new Congress. The California Act of June 13, 1923, also printed in full in the former report (*Ibid.* p. 733 *et seq.*) likewise follows closely the text of the Revolver Association law, embodying, however, considerable additional matter concerning dangerous weapons other than firearms. Moreover attention might also have been called to the enactment by the North Dakota legislature of the Revolver Association law which was approved in that State March 7, 1923. The North Dakota law follows the model act section by section practically

verbatim. Attention might also have been called to the New Hampshire Act of May 4, 1923, which enacts the Revolver Act in the main with differences herein mentioned, omitting ss. 3 and 4. Because then of the favor already shown the Revolver Association Law as well as its intrinsic merits for clearness and simplicity the committee decided to adopt that law as the basis for this First Tentative Draft. And this decision has received further support in the adoption in Indiana March 12, 1925, while this report was in course of preparation, of an act which follows the Revolver Association's Law almost *in toto*.

PROCEDURE OF COMMITTEE

In order to bring to bear on the consideration of a tentative draft of a law all possible information the committee first caused to be copied from material in the Legislative Section of the Library of Congress the full text of the firearms laws of all the States and other jurisdictions of the United States. To supplement and bring this information up to date inquiries were sent to the secretaries of State and legislative bureaus of the various States and other jurisdictions of the country. Information was thus obtained not only as to some of the recent enactments already mentioned but as to others as well.

With this material before it for consideration a majority of the committee met in personal conference in Chicago February 26-27, 1925, and formulated the First Tentative Draft printed herein. This has been further considered by correspondence. With the various sections of the Tentative Draft of the proposed law are printed epitomes of the various local laws which the committee had before it and of laws which have come to the attention of the committee since its conference.

While the committee has adopted the proposed law of the Revolver Association in the main there have been some omissions, some changes, and some additions. These are indicated specifically in connection with the various sections. The punishments for violations named in the Revolver Act, which are generally higher than in other laws, have been put in brackets as have also names of local officers. Section 3 of the Revolver Act, naming successively

higher penalties for second and further offenses, has been omitted as it has been in the New Hampshire Act mentioned above.

GENERAL PRINCIPLES OF TENTATIVE DRAFT

The proposed law does not aim to interfere with the manufacture of firearms. It does not aim to require a license to purchase firearms, which is the method of regulation adopted by some legislatures (*e. g.*, Oregon Laws 1913, Ch. 256 s. 1.). Nor does it aim at so drastic a regulation as a state-wide registration of all firearms as in the Arkansas Act of March 16, 1923. Starting with a definition of a "pistol or revolver" as a firearm with barrel less than twelve inches in length the law seeks to impose a heavier penalty for a crime by one illegally armed, making illegal possession of a pistol or revolver *prima facie* evidence of intent. It forbids felons possessing arms at all; it forbids everyone, with suitable exceptions, from carrying arms concealed except with a license. It forbids sales of arms to minors. It regulates sales generally, requires of dealers licenses to sell, imposing special rules for such licenses intended to insure proper precautions as to delivery of weapons and as to records. These purposes are furthered by provisions for penalties for false information and alteration of identifying marks on weapons. Some minor provisions are also included.

It is believed by the committee that the provisions of the proposed law present no constitutional objections, constitute no drastic changes in the law of any jurisdiction, and if adopted generally will not only secure uniformity but will remove the evils of the present lack of uniformity. One of the most serious of these evils is the ease with which a criminal may now go from a State where the laws are stringent to one where there is little or no regulation, and after purchasing a weapon return with it to the former where he may thus accomplish his nefarious purpose.

The Tentative Act, like the model act, does not attempt to set forth forms for recording permits and sales as contained, for example, extensively in the California Act and briefly in the recent New Jersey Act of March 11, 1924 (Ch. 137 Laws 1924) s. 3, the committee deciding that forms would unnecessarily encumber the law.

DIFFERENCES IN TENTATIVE DRAFT FROM REVOLVER ASSOCIATION LAW

The principal points of difference between the provisions of the Tentative Act and the text of the Revolver Association Law may be summarized as follows:

1. For violation of the law no definite amounts of fines or lengths of imprisonment are fixed, the provisions of the Revolver Association Law being put in brackets for illustration. These have been generally considerably reduced in States adopting the Revolver Act.

2. The provisions of s. 3 of the Revolver Association Law for progressive increase of punishment is omitted, because it is believed by the committee to be too drastic. It has been omitted, as stated above, in the New Hampshire Act.

3. In s. 4 of the Tentative Draft, which follows s. 5 of the original the prohibition against aliens is omitted because the committee feels that this may involve a possible question of treaty violation. Summaries of various state laws on this subject are contained in an appendix to this report.

4. The exceptions to the rule against carrying concealed weapons in s. 6 of the Tentative Act modify and enlarge somewhat the same contained in 7 of the original.

OTHER METHODS OF REGULATION CONSIDERED

In an appendix to this report (*Infra* p. 34) are contained, in addition to references to laws prohibiting possession of firearms by aliens mentioned before, references to some other methods of regulation as they appear in the various local laws but not contained in the model upon which the committee worked and which the committee therefore felt would unduly encumber the Tentative Draft, *e. g.*, special penalties for pointing a firearm at a person, and laws limiting firearms to certain standard makes.

EXPLANATION OF REFERENCES TO OTHER LAWS

The epitomes of State or other laws appended to sections of the Tentative Draft refer by short titles to the State or other local laws. Citations to the California Law are to the Act of June 13,

1923, printed in full in the previous report of the committee. (Handbook 1924 p. 733 *et seq.*). In addition to references to the Code of the District of Columbia citations are made under the title of the latter jurisdiction to the Capper Bill, also printed in full in the previous report. (*Ibid.* p. 743 *et seq.*). These two laws are, as are also the North Dakota Act of March 7, 1923, the New Hampshire Act of May 4, 1923, and the Indiana Act of March 12, 1925, modeled closely, as stated above, upon the proposed Act of the United States Revolver Association. This law used as a model herein and also printed in full in the previous report (*Ibid.* p. 728 *et seq.*) is referred to briefly as the Revolver Act. It is reprinted in full in the appendix hereto.

RECOMMENDATIONS OF COMMITTEE

The committee submits this report and Tentative Draft with its accompanying digests of local laws first for the consideration of individual members of the Conference and in connection therewith the Committee will welcome any verification of the citations to various local laws and any information as to changes or additions thereto not noted by the committee. It then requests a full consideration of the Tentative Draft by the National Conference in line with the vote of the last session, and recommends that this committee be continued or another appointed for the purpose of giving further consideration to the proposed law in the light of what action may be taken by the Conference.

CHARLES V. IMLAY, *Chairman*

HENRY U. SIMS

WALTER E. COE

FRANK M. CLEVINGER

FRANK H. NORCROSS

ALEXANDER ARMSTRONG

Ex-officio: NATHAN WILLIAM MACCHESNEY, *President*

FIRST TENTATIVE DRAFT OF A UNIFORM ACT TO
REGULATE THE SALE AND POSSESSION OF
FIREARMS

- 1 SECTION 1. *Definition.* "Pistol or revolver," as used
2 in this Act, shall be construed as meaning any firearm with barrel
3 less than twelve inches in length.

Note: The proposed section is identical with s. 1 of Revolver Act. (p. 38, *infra*). The following summary of local laws indicates that where the legislature has attempted to define a "pistol or revolver" the definition has been generally the same. In States other than those named no legislative definitions have been found.

Cal. Act 1923, s. 2. Identical with proposed section.

Colo. Sts. Ann. s. 2595A. "Firearm" defined as pistol, revolver or other weapon from which any missile can be discharged, with a barrel not exceeding twelve inches in length.

Conn. Act June 2, 1923, s. 1. Identical with proposed section.

D. C. Capper Bill. s. 1. Identical with proposed section.

Ind. Act 1925, s. 1. Identical with proposed section.

Mass. Gen. Laws, Ch. 485 s. 121. (As amended 1922). Defines a firearm as "a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel, not including any revolving, detachable or magazine breach, does not exceed twelve inches."

Nev. Act Feb. 11, 1925. (Effective July 1, 1925) s. 2. Same definition as in proposed section.

N. H. Act May 14, 1923. s. 1. Identical with proposed section and s. 1 of Revolver Act.

N. D. Act 1923. s. 1. Identical with proposed section.

Ore. Ore. Laws s. 9671. Carrying of firearms of a size which may be concealed about the person is prohibited.

- 1 SECTION 2. *Committing Crime When Armed.* If any person
2 shall commit or attempt to commit a felony when armed with a pis-
3 tol or revolver, and having no permit to carry the same, he may
4 in addition to the punishment provided for the crime, be punished
5 by [imprisonment for not less than one nor more than five years].

Note: The proposed section follows s. 2 of the Revolver Act (p. 38 *infra*) except that in Line 2 the word "felony" is substituted for the word "crime" and in Line 3 "may" for "shall," and periods of one and five years are fixed for punishment for violations in lieu of five and ten in the Revolver Act. Words in Line 5 moreover are put in brackets.

Cal. Act 1923, s. 3. For committing crime when armed in violation of act addition for first offense of not less than five nor more than ten years, for second not less than ten nor more than fifteen, for third not less than fifteen nor more than twenty-five. Upon fourth not less than twenty-five or perpetual. s. 4 forbids court to grant probation in such cases.

Del. Act April 8, 1881. s. 3. Killing a person while pointing a gun at him "either in jest or otherwise" is manslaughter in a case where it is not murder.

D. C. No such statute now in effect. Capper Bill, s. 2 is similar to proposed section, except that punishment is fixed at not more than five years.

Ind. Act 1925, s. 2. Identical with proposed section, agreeing with terms of punishment fixed in latter and departing from the more severe punishments named in corresponding section of Revolver Act.

N. H. Act May 4, 1923. s. 2. Identical with s. 2 of Revolver Act, except maximum penalty is 5 years and resembling and differing from proposed section as in note above.

N. Y. Birdsey's, etc. Cons. Laws, 2d Ed. Vol. 13, p. 1570. If the offender has been previously convicted of any crime he shall be guilty of a felony.

N. D. Act 1923, s. 2. Identical with proposed section and s. 2 of Revolver Act except that penalty is fixed at the more drastic one of "not less than ten years."

R. I. Gen. Laws 1896. s. 25. Any person charged with any crime or misdemeanor, or for being drunk or disorderly, or for any breach of the peace, and carrying weapons, if convicted shall in addition to the penalty for carrying the weapon be fined from \$5-\$20, and the weapon confiscated.

S. C. Acts of 1880, Act No. 362. s. 5. Conviction of assault, assault and battery or manslaughter, committed with a concealed

weapon, increases the penalty relating to concealed weapons by from three to twelve months or not less than \$200, or both in addition.

W. Va. Acts of 1909, Ch. 51, s. 7. On a second offense for carrying forbidden weapons the prosecuting attorney cannot use his discretion as to charging or introducing evidence. Boys under eighteen may be committed to the reform school.

- 1 SECTION 3. *Being Armed Prima Facie Evidence of Intention.*
2 In the trial of a person for the commission of a felony or of an
3 attempt to commit a felony against the person of another, the fact
4 that he was armed with a pistol or revolver and having no permit
5 to carry the same shall be prima facie evidence of his intention
6 to commit said felony.

Note: The proposed section is identical with s. 4 of Revolver Act (p. 38 *infra*.).

Ala. Act Aug. 9, 1919, s. 4, Provides defendant may give evidence that at time of carrying firearm he had reason to apprehend an attack which jury may consider in mitigation or justification of offense.

Cal. Act 1923, s. 3. In the trial of a person for committing or attempting to commit a felony, being armed without a license is *prima facie* evidence of intent to commit such felony.

D. C. Capper Bill, s. 4. Identical with proposed section.

Ind. Act 1925, s. 14. Identical with proposed section.

Ia. Laws of Ia., Ch. 297, s. 8. Failure to produce permit to carry firearms when requested by officer, is *prima facie* evidence of violation of the law against carrying concealed weapons.

Mich. Howell's Statutes. s. 14767. Failure to produce license to carry firearms upon request of officer, is *prima facie* evidence of violation of the act.

Minn. Rev. Laws 1905 s. 4996. The possession of concealed weapons is presumptive evidence of intent to use the same.

N. H. The Act of May 4, 1923, while otherwise closely modeled on Revolver Act, omits this section.

N. J. Laws 1912, Ch. 25, s. 3. Carrying concealed weapons is presumptive evidence of carrying, concealing and possessing with intent to use the same. Apparently not altered by recent Act March 11, 1924.

N. C. Gregory's Revisal 1917, s. 3708. Any person not on his own lands who has about his person any deadly weapon, the possession is *prima facie* evidence of concealment.

N. D. Act 1923, s. 4. Identical with proposed section and with s. 4 of Revolver Act.

R. I. Gen. Laws 1896, s. 26. Provides that the wearing or carrying of concealed weapons shall be evidence that such wearing or carrying is unlawful, but the respondent may show any act rendering the carrying lawful.

1 SECTION 4. *Felons Must Not Possess Arms.* No person
2 who has been convicted of a felony against the person or property
3 of another or against the Government of the United States or of
4 any State or subdivision thereof, shall own or have in his pos-
5 session or under his control, a pistol or revolver. Violation of
6 this section shall be punished by [imprisonment for not less than
7 one nor more than five years].

Note: This section is identical with Revolver Act s. 5 (p. 38, *infra*) except for the omission of the first words of the latter, viz.: "No unnaturalized foreign-born person—", and the fixing of a lighter penalty. It thus excludes aliens from its application. A summary of State laws relative to aliens is contained in an appendix herewith.

Cal. Act 1923, s. 2. Identical as to felons with proposed section but containing also similar prohibition against aliens, as in Revolver Act s. 5.

D. C. Capper Bill. While modeled on Revolver Act has no section similar to proposed section nor to Revolver Act s. 5 and hence contains no absolute prohibition against felons or aliens possessing firearms.

Ill. Act 1919, s. 7. Ill. Rev. St. 1921. Par. 140. Provides that person previously convicted of certain felonies shall be guilty of a felony if he carries concealed weapons.

Ind. Act 1925, s. 4. Identical with proposed section, applying like the latter to felons and also like the proposed section omitting reference to aliens contained in the corresponding s. 5 of Revolver Act.

Nev. Act Feb. 11, 1925 (Effective July 1, 1925) s. 2. Similar provision. Violation a felony punishable by not less than one nor more than five years.

N. H. Act May 4, 1923, s. 3. Almost identical with proposed section as regards felons but applying like s. 5 of Revolver Act to aliens also. Punishment, however, is not more than 2 years and confiscation provision is added.

N. Y. Birdseye's, etc. Cons. Laws 1897, s. 11. Provides that the conviction of a licensee to carry firearms of a felony shall revoke such license. Possession of firearms without license to carry by person over sixteen years who has been convicted of a felony, shall constitute a felony.

N. D. Act 1923, s. 5. Identical with proposed section as regards felons but applying like s. 5 of Revolver Act, with which it is identical, also to aliens.

1 **SECTION 5. *Carrying Pistol Concealed.* No person shall**
2 **carry a pistol or revolver concealed in any vehicle or on or about**
3 **his person, except in his dwelling house or place of business,**
4 **without a license therefor as hereinafter provided. Violation of**
5 **this section shall be punished by [imprisonment for not less than**
6 **one nor more than five years].**

Note: Varies from corresponding s. 6 of Revolver Act (p. 38, *infra*) by substitution for the words in the latter "upon his person" of the words "on or about his person" (Lines 2-3 above) and the omission of the final words of said section "and upon conviction the pistol or revolver shall be confiscated and destroyed." The latter words have been omitted by the committee because it felt that the matter can be dealt with by general State laws relative to contraband goods. The punishment is changed also in adding to the words "not less than one" the words "not more than five years."

Ala. Act August 9, 1919, ss. 1 & 2. Forbids carrying "pistol concealed" about person or on premises not his own, or under his control. s. 3 Violation not defined. Punishment: \$50-\$500 and—— or imprisonment for not more than six months.

Ark. Act of March 16, 1923, s. 3 Forbids any person to "purchase or acquire possession of any pistol or revolver" without permit. Violation a *misdemeanor*. Punishment: \$50-\$100. (*Note:* The Arkansas law cited required every one having a pistol or revolver in his possession to report same within sixty days of the Act.).

Cal. Act 1923, s. 5. Prohibition similar to that in proposed section. Violation *misdemeanor*, but if guilty person "has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony."

Colo. Session Laws 1911, s. 1830. Forbids "carrying concealed any firearms, etc., pistol, revolver, etc." Violation a *misdemeanor*. Punishment: Not more than \$500 or imprisonment for not more than one year.

Conn. Act June 2, 1923, s. 9. No one shall "carry" weapon upon person or in vehicle without permit. s. 12 fixes punishment for violation at not more than \$1,000 or — and not more than 5 years.

Del. Act April 8, 1881, (Del. Laws, Ch. 548), s. 1. Forbids carrying concealed a "deadly weapon." Violation a *misdemeanor*. Punishment: \$25-\$200 or — and 10 days-6 months in jail.

D. C. Code s. 855. Forbids any deadly or dangerous weapon concealed about person; also if not concealed when carried with intent "to unlawfully use the same." Violation a *misdemeanor*. Punishment: \$50-\$100 or — and one year.

Capper Bill s. 5. Identical with proposed section, adding confiscation provision as in Revolver Act. s. 6.

Fla. Laws of 1901, Ch. 4926, s. 1. Forbids "carrying arms of any kind secretly on or about person, etc." Violation a "*breach of peace*." Punishment: Not less than three nor more than six months, or \$100-\$500 or both.

Ga. Laws of 1910, p. 134, s. 1. Forbids "carrying secretly on or about person any pistol". Violation a *misdemeanor*. Punishment: General punishment referring to misdemeanors in S. 1039 Penal Code 1895.

Ill. Act 1919, s. 4; Rev. St. 1921, Par. 137. Forbids any person to carry concealed upon person any pistol, revolver or other firearm, etc. Violation a *misdemeanor*. Punishment: (*Ibid.* s. 6; *Ibid.* Par. 139). Not less than \$100 nor more than \$1,000, and — or not more than one year.

Ind. Act 1925, s. 5. Similar in its prohibition to proposed section. Violation a *misdemeanor*. Punishment: Not more than \$100 "to which may be added imprisonment for not more than one year."

Confiscation provision added as in Revolver Act s. 6. (v. Note above).

Ia. Laws of 1913, Ch. 297, s. 1. Forbids any person to go armed with and have concealed upon his person a pistol or revolver, etc. s. 11 Violation a *felony*. Punishment: Not more than \$500 and — or imprisonment for not more than 2 years.

Kan. Laws of 1903, Ch. 216, s. 1. Forbids carrying on person in a concealed manner any pistol, etc. Violation a *misdemeanor*. Punishment: Not more than \$100 and — or not more than three months.

La. Act June 29, 1906, s. 1. Forbids carrying of weapons "on or about person such as pistols, etc." Violation not defined. Punishment: \$100-\$500 and imprisonment 60 days-6 months.

Me. Public Laws, 1917, Ch. 217, s. 1. No person shall in a threatening manner display any firearm nor shall wear under his clothes or concealed about his person any such firearm unless first licensed so to do by the chief of police or city marshal. s. 4 provides penalty of not less than \$100 or jail for not more than 90 days.

Md. Code, Vol. 3, Art. 27, s. 39. Carrying concealed pistol, etc., or carrying "openly with intent or purpose of injuring any person in any unlawful manner" a *misdemeanor*, punishable by not more than \$1,000 or imprisonment for not more than 2 years. If carried for deliberate purpose of harming another maximum sentence to be imposed.

Mass. R. L. Ch. 211, s. 9; Act March 16, 1906 (Suppl. to R. L., Peck, p. 897), s. 7. Whoever without license carries on his person a "loaded pistol or revolver" punishable (violation not defined by \$10-\$100 or) and not more than 1 year.

Mich. Howell's St. 14760, s. 1. Forbids "any person to go armed with a revolver etc., concealed upon person." s. 14767. Violation a *felony*. Punishment: Not more than \$500 and — or not more than two years.

Minn. Revised Laws, 1905, s. 4996. Any person who shall, with intent to use against another "conceal or possess" a pistol, etc., is guilty of a *gross misdemeanor*.

Miss. Code ss. 829-830. Anyone carrying concealed "in whole or in part" any pistol, etc., is guilty of a *misdemeanor* and may be fined \$25-\$100 or — and imprisoned not more than three months,

and forfeit the weapon to the State. s. 836. Exhibiting the weapon in a threatening manner aggravates the offense.

Mo. Rev. St. Mo. s. 1862. Forbids any person from carrying concealed any "deadly or dangerous weapon" or from carrying any gun or firearms, etc., into any public meeting, or to carry when intoxicated. Violation not defined. Penalty \$50-\$200 or — and 5 days to 6 months imprisonment.

Mont. Act March 1, 1911, s. 1. (Amending, Revised Codes of Montana s. 8582). Carrying pistol or revolver concealed upon person unlawful. Violation not defined. Punishment not more than 6 months in jail or \$500 or — and imprisonment in penitentiary not more than 5 years.

Neb. Laws 1911 (Amending Criminal Code s. 25.). Whoever shall carry a concealed weapon such as a revolver, pistol, etc., shall on conviction be fined in any sum not exceeding \$1,000 or imprisonment in penitentiary for not exceeding 2 years.

N. H. Act of May 4, 1923, s. 4. Resembles s. 6 of Revolver Act. Penalty for violation not more than \$100 and — or not more than 1 year. Confiscation provision omitted. Resembles proposed section as in Note above.

N. J. Act March 11, 1924, (Ch. 137, Laws of 1924) s. 1. Any person who shall carry any revolver or pistol on person or in vehicle shall be guilty of a *high misdemeanor*. Punished under general law governing same.

N. Y. Birdseye's, etc. Laws of N. Y. Vol. 13. Par. 1897. s. 4. Any person over age of 16 years having in his possession or carrying concealed a pistol, revolver and other firearms capable of being concealed, without license is guilty of a *misdemeanor*. If previously convicted of any crime guilty of *felony*. Punishable under general laws referring to said crimes.

N. C. Public Laws 1917 (Amending s. 3708 of Revisal of N. C. of 1905). Anyone carrying a concealed pistol or gun, except on his own premises, shall be guilty of a *misdemeanor*. Penalty \$50-\$200 or imprisonment 30 days-2 years.

N. D. Act 1923, s. 6. Similar to proposed section and to s. 6 of Revolver Act the prohibition being somewhat wider, to wit: "No person shall carry a pistol or revolver concealed in any vehicle or in

any package, satchel, grip, suit case or carry in any way or upon his person, etc." Penalty same. Confiscation provision.

Ohio. Criminal Code (1924). s. 12819. Forbids the carrying of a pistol, etc., concealed on or about person. Violation not defined. Punishment fine not to exceed \$500 or imprisonment in the county jail or work house not less than 30 days nor more than 6 months, or imprisonment in the penitentiary not less than 1 year nor more than 3 years."

Okla. R. L. (1907-1908) Art. XLIV. s. 1991. Forbids carrying pistol, revolver, etc., concealed on or about person. Violation not defined. S. 1996 makes first violation *misdemeanor* punishable by fine of \$25 or not more than 30 days in jail, or both, and subsequent violation (degree of crime not defined) punishable by \$50-\$250 or 30 days to 3 months in jail, or both.

Ore. Laws 1917, c. 377, s. 1. (Oregon Laws s. 9675). Prohibits the carrying concealed revolver, pistol or other firearm, etc. Ch. 256, s. 4 declares violation a *misdemeanor*, fine \$10-\$200 or 5-100 days or both.

R. I. Gen. Laws 1896. s. 23. No person shall carry any concealed firearms or other weapon. Violation not defined. Fine: \$10-\$20 or not more than 3 months in prison.

S. C. Acts of 1880, Act No. 362, s. 1. Any person carrying a pistol or other deadly weapon, concealed about his person shall be guilty of a *misdemeanor*. Fine not over \$200 and not more than 12 months in prison or both. Weapon to be forfeited to State.

Tenn. Shannon's Ann. Code, County Ed. Vol. 2, s. 6641. No pistol, revolver or other weapon may be carried publicly or privately except army or navy pistol which shall be carried openly in the hand. s. 6642. Penalty \$50 and imprisonment, the imprisonment discretionary.

Tex. Vernon's Texas Civ. & Crim. St. 1922 Suppl. Art. 475. Carrying firearm "on or about person, saddle, or in saddle bags" unlawful. Violation not defined. Punishment \$100-\$500 or 1 month-1 year.

Vt. Gen. Laws 1917, s. 6659. Carrying weapon openly or concealed with intent to injure a fellow man punishable by not more than 2 years or — and not more than \$200.

Va. Code 1924, s. 4534. Carrying about person "hid from common observation" any pistol, etc., unlawful. Violation not defined. Punishment: \$20-\$100 and in discretion of court in addition not more than 6 months.

Wash. Code of 1919, s. 8835. Any person who shall "furtively carry or conceal" firearm guilty of *gross misdemeanor*. Punishable under general law.

1 SECTION 6. *Exceptions.* The provisions of the preceding
2 section shall not apply to marshals, sheriffs, prison or jail
3 wardens or their deputies, policemen, or other duly appointed peace
4 officers, nor to members of the Army, Navy, or Marine Corps of the
5 United States, or of the National Guard, when on duty, or of organi-
6 zations by law authorized to purchase or receive such weapons from
7 the United States, or this State, nor to officers or employees of
8 the United States authorized by law to carry a concealed pistol or
9 revolver, nor to duly authorized military organizations when
10 parading, nor to the members thereof when at or going to or from
11 their customary places of assembly, nor to the regular and ordinary
12 transportation of pistols or revolvers as merchandise, nor to any
13 person while carrying a pistol or revolver in a wrapper from the
14 place of purchase to his home or place of business, or to a place
15 of repair or back to his home or place of business, or in moving
16 goods from one place of abode or business to another.

Note: The above section adopts s. 7 of Revolver Act (p. 39 *infra.*), in the main but omits exceptions in favor of "civil" organizations. It adds to excepted persons "prison or jail wardens and their deputies" and "officers or employees of the United States, or of this State, etc." (Lines 7-9 *supra.*). It places exemption of transportation of firearms as merchandise at end, adding specific exception in favor of carrying firearm in wrapper. (Lines 12-16 *supra.*). It will be noted that the exception in favor of carrying concealed weapons in dwelling house or place of business is contained in proposed s. 5 *supra.*, as it is in the corresponding s. 6 of Revolver Act.

Ala. Act Aug. 9, 1919, s. 2. Usual exceptions with "rural free delivery mail carriers." s. 4. "The defendant may give evidence that at the time of carrying the pistol he had good reason to appre-

hend an attack which the jury may consider in mitigation of the punishment or justification of the offense." s. 5. If evidence offered to excuse raises a reasonable doubt jury must acquit.

Conn. 1923, Ch. 252, s. 10. Exempts the usual officers, troops or organizations, transportation of pistols or revolvers as merchandise, or carried in the original wrapping to purchaser's home or place of business, or while moving or to be repaired and back home.

D. C. Code s. 855. Usual excepted classes, and usual exception with reference to residence and place of business, going to and from same and to and from a place of repair, as in proposed section.

Capper Bill. s. 6. Identical with Revolver Act s. 7.

Ga. Laws 1910, No. 432, s. 1. The usual classes of peace officers "or other arresting officers of this State or United States."

Ill. Act July 11, 1919, s. 5; Rev. St. 1921, Par. 138. Includes with usual exceptions "any warden, superintendent or head keeper of any prison, penitentiary, county jail or other institution for the detention of persons convicted or accused of crime, while engaged in the discharge of their official duties."

Ind. Act 1925, s. 6. Conforms to provisions of proposed section in so far as the latter conforms to s. 7 of Revolver Act, but adds exception in favor of "the pistols or revolvers of any bank, trust company or common carriers, or of the officers or employees of any bank, trust company, or common carriers while such officers or employees are guarding money or valuables within the line of their duty as employees." The Indiana law also inserts after the words in the proposed section "Marine Corps (Line 4, *supra*) the words "or the mail service."

La. Act June 29, 1906, s. 1. Excepts among other classes "town marshals."

Me. Public Laws 1917, Ch. 217, s. 3. Excepts among others, officers duly commissioned by commissioners of inland fisheries and game.

Md. Code, Vol. 3, Art. 27, s. 39. Usual officers excepted and also "any person who shall carry such weapons as a reasonable precaution against apprehended danger, but the tribunal before which any case arising under the provisions of this section may be tried shall have the right to judge of the reasonableness of the

carrying of any such weapon, and the proper occasion therefor, under the evidence in the case."

Mass. Gen. Laws, Ch. 33, s. 64. Permits the militia and artillery company of Boston to drill under arms.

Mo. Rev. St. s. 1863. Excepts "persons moving or travelling peaceably through this State." Other usual exceptions.

Mont. Laws 1911, Ch. 58, s. 8582. Excepts peace officers and persons carrying arms on his own premises or place of business.

Neb. Code, Act April 10, 1911, amending Neb. Code s. 2079. Excepts "those engaged in any lawful business under such circumstances as would justify a prudent person in carrying the weapon."

Nev. Act Feb. 11, 1925 (Effective July 1, 1925) s. 3. Excepts with sheriffs—police officers "any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer."

N. H. Act May 4, 1923, s. 5. Identical with s. 7 of Revolver Act except that words "law enforcement officers" officers are substituted for "peace officers." Resembles proposed section as stated in Note above.

N. J. Act March 11, 1924, (Ch. 137, Laws of 1924) s. 1. Excepts in addition to regular officers, motor vehicle inspectors, fish and game wardens, railway, canal and steamboat police, and prosecutor's detectives; and public utility corporations transporting explosives used in operations. Exception in favor of dwelling house and place of business.

N. D. Act 1923, s. 7. Identical with s. 7 Revolver Act and resembling to extent that latter does the proposed section.

Ohio. Code s. 12819, as amended March 22, 1917. Excepts officers of the law, other than deputies and special officers who, when not on active duty, may carry arms under bond of \$1,000.

Okla. Rev. Laws, Art. XLIV, s. 1994. Provides that public officers may carry arms, but deemed as private persons when intoxicated.

Ore. Laws 1913, Ch. 256, s. 1. (*Ore. Laws* s. 9671.) Excepts police, militia or peace officers, or those called to assist and organizations duly authorized.

R. I. Gen. Laws, 1896, s. 23. Excludes from the provisions of the act officers or watchmen whose duties require them to make arrests and those summoned to assist them.

S. C. Acts of 1880, No. 362, s. 4. Exempts peace officers in the actual discharge of their duties, and persons on their own premises.

Tenn. Shannon's Code, County Ed. Vol. 2, s. 6643. Persons on military service, officers and policemen, "and posse" are excepted. Persons in the military service may carry only such pistols as prescribed by regulations.

Tex. Vernon's Statutes, 1922, Supp. No. 2, s. 476. The provisions of s. 475 do not apply to persons in the military service, officers on duty, nor on one's own premises or place of business, or travelling, nor to game and fish officials on duty.

W. Va. Acts 1909, Ch. 5 amending Code Ch. 148, s. 7: Exempts regular police officers, sheriffs etc., except they shall give bond for \$3,500 to cover the improper use of firearms. In emergencies any person issuing a warrant may authorize the serving officer to carry a weapon, and keep a record of the same. Excepts dwelling house and place of business.

Wis. Statutes 1917 Ann., s. 4397. Exempts any officer authorized to serve process.

1 SECTION 7. *Issue of Licenses to Carry.* [The justice of
2 a court of record, the chief of police of a city or town and the
3 sheriff of a county, or persons authorized by any of them], shall,
4 upon the application of any person having a bona fide residence
5 or place of business within the jurisdiction of said licensing
6 authority, or of any person having a bona fide residence or place
7 of business within the United States and a license to carry a fire-
8 arm concealed upon his person issued by the authorities of any State
9 or subdivision of the United States, issue a license to such person
10 to carry a pistol or revolver within this State for not more than
11 one year from date of issue, if it appears that the applicant has
12 good reason to fear an injury to his person or property or for any
13 other proper purpose, and that he is a suitable person to be so
14 licensed. The license shall be in triplicate, in form to be pre-
15 scribed by [the Secretary of State] and shall bear the name, ad-
16 dress, description, and signature of the licensee and the reason
17 given for desiring a license. The original thereof shall be de-

18 livered to the licensee, the duplicate shall within [seven] days
19 be sent by registered mail to [the Secretary of State] and the
20 triplicate shall be preserved for six years by the authority issuing
21 said license.

Note. The above section is identical with s. 8 of the Revolver Act (p. 39 *infra*) except for the insertion of brackets. The laws of the various States summarized below, like the provisions of the proposed section, relate to licenses to carry concealed firearms.

Ark. Act of March 16, 1923. Requires registration by all persons having such weapons at that date. Such persons so registering and applicants thereafter must have licenses from a board consisting of sheriff, county judge and county clerk. Records to be kept by said board.

Cal. Act 1923, s. 8. Permit granted by sheriff of a county, and the board of police commissioners, chief of police, city marshal, town marshal, or other head of police department of a city, city and county, town, etc. Applicant must show good character, etc. Record to be kept.

Colo. Act June 3, 1911, amending s. 182 of Ch. 25 of Crim. Code. License to be issued by Chief of Police of a city, Mayor of a town, or Sheriff of a county.

Conn. Act June 2, 1923, s. 3. Authorizes the town authorities to issue a permit for the sale of pistols and revolvers at retail, or carrying of the same if the applicant has a bona fide residence or place of business in the town, or holds a license from a State or subdivision of the United States.

Del. Laws of 1911, Ch. 548, Vol. 16. License issued by Clerk of Peace of county. Usual provisions for record.

D. C. Code, s. 855. Permit granted by a judge of Police Court of D. C., for not more than one month at a time upon proof of necessity and upon filing a bond to keep peace with sureties to be approved by such judge in such penal sum as he may require.

Capper Bill, s. 7. Practically identical with Revolver Act s. 8.

Fla. Act of May 9, 1901, (Fla. Laws Ch. 4147) s. 1. License required "to carry a pistol, Winchester or other repeating rifle" from county commissioners.

Ga. Act Aug. 12, 1910, s. 2. Made unlawful "to have or carry about person any pistol or revolver" without license from the Or-

dinary of the County. Applicant must be at least eighteen and give bond. Record to be kept by Ordinary.

Ill. Act July 11, 1919, s. 4; Rev. St. 1921, Par. 137. Written license required for concealed arm from chief police officers in cities and from justices of peace and police magistrates in the State. Limited to citizen of Illinois. *Ibid.* s. 6; *Ibid.* Par. 139 makes violation of above a misdemeanor punishable by \$100-\$1,000 or not more than one year or both.

Ind. Act 1925, s. 7. Conforms in general to proposed section. Word "permit" is used instead of "license." Permit is granted by clerk of circuit court for one year "or until revoked as herein provided." Application must be signed by two resident householders and freeholders of the county in which the applicant lives." Permit in duplicate in form prescribed by Adjutant General of State, one copy to applicant and one to clerk of circuit court issuing same to be kept by him for six years. Fee one dollar.

Me. Public Laws, 1917, Ch. 217, s. 2. Chief of Police or city marshal may issue to any person of good moral character a license to carry firearms. Continues in effect until revoked by proper officer.

Mass. Gen. Laws, Ch. 485, s. 131 (as amended 1922). Authorizes the courts, police, mayor, selectmen, or persons by them authorized to issue a license to carry a concealed pistol for any good reason.

Mich. Howell's Mich. Statutes, s. 14762. Prosecuting attorney and sheriff, and where police force exists the chief of police may as a board issue license, County clerk to act as secretary of board and keep records. Application to state various facts similar to above section.

N. H. Act May 4, 1923, s. 6. Resembles generally s. 8 of Revolver Act, but differs from it in not limiting license to residents or those licensed elsewhere. License to be issued by selectmen of town, chief of police, etc. Resembles in general proposed section.

N. J. Act March 11, 1924, (Ch. 137 Laws 1924) s. 2. A permit to carry firearms can be applied for to the chief of police or sheriff, and if approved, application must be made to the Supreme Court, which if satisfied as to the need, shall issue a permit, good until the 31st day of the following December, and thereafter renewed for five years. *Ibid.* s. 5. The president of any National bank, or other

financial institution may obtain in blank not more than twenty permits for messengers or other employees of institutions.

N. Y. Birdseye's, etc., Cons. Laws, 2d Ed., Vol. 13, p. 1570. License shall be issued by police commissioners in New York City or any magistrate elsewhere in the State to certain officials, such as jail keepers, wardens of penitentiary, etc., or to any householder merchant, storekeeper or bank or express company messenger in the State authorizing him to have a pistol or revolver in his dwelling, or place of business, or in case of messenger, to carry such weapon. Also license may be issued to any person of good character, if proper cause exists. Limited to citizens of the State.

N. D. Act 1923, s. 8. Identical with s. 8 of Revolver Act and resembling to extent that latter does proposed section.

Ore. Laws 1917, Ch. 377, s. 1. (Oregon Laws s. 9675). Permit to carry by chief of police or sheriff. *Permit to purchase* (*Ibid.* ss. 9671 & 9672) issued by municipal judge, etc., on application supported by character affidavits of two freeholders.

W. Va. Acts 1909, Ch. 51, s. 7. A State license may be obtained to carry a weapon within any county by publishing a notice in a newspaper in county giving applicant's name, residence and occupation, and when application will be made to the county court. Application must be at least 10 days after notice. The court may then grant a license upon discretion, if applicant proves to be 21 years of age, of good character, not addicted to intoxication, or not previously convicted of an offense involving use of firearms by him. Applicant must file paper stating purpose and show good reason. Fee \$10. Bond \$3,500.

- 1 SECTION 8. *Selling to Minors.* Any person or persons who
- 2 shall sell, barter, hire, lend, or give to any minor under the age
- 3 of eighteen years any pistol or revolver shall be deemed guilty of
- 4 a misdemeanor, and shall upon conviction thereof be fined not less
- 5 than [\$100] nor more than [\$1,000] or be imprisoned for not less
- 6 than [three months] nor more than [one year], or both.

Note. Above section is identical with s. 9 of Revolver Act. (p. 39 *infra*); except for brackets.

Cal. Act 1923, s. 9. Any person who shall "sell, barter, hire, lend, or give to any minor under the age of 18 years" is guilty of

misdemeanor punishable by \$100-\$1,000 or 3 months-1 year or both.

Conn. Act June 2, 1923, s. 8. Unlawful to sell, etc., to minor under 18 years. Penalty for violation not more than \$500 or — and not more than 5 years.

Del. Code s. 4799. Whoever knowingly sells weapon to minor punishable by \$25-\$200 or 10 days-6 months or both.

D. C. Code s. 857. Any person who shall "sell, barter, hire, lend, or give to any minor under 21 years" guilty of a misdemeanor punishable by not more than \$100 or not more than 3 months or both.

Capper Bill, s. 8. Resembles s. 9 Revolver Act with however the proviso "except when the relation of parent and child or guardian and ward exists" etc., and with a maximum punishment of \$100 or — and 3 months.

Ill. Act July 11, 1919, s. 2. Unlawful for any person "not being the father, guardian or employer" of minor "by himself or agent, to sell, give, loan, hire or barter to any minor, etc." s. 6 makes violation a misdemeanor punishable by fine of \$25-\$1,000 or not more than 6 months or both.

Ind. Act 1925, s. 8. Similar to proposed section, but differs from it in fixing age at "under 21," omitting minimum while retaining same maximum punishments, and adding "except for uses herein-before provided." The uses mentioned no doubt refer to the exceptions contained in s. 6 of the Indiana law, which, as shown before, are similar to the exceptions named in the proposed s. 6 above.

Ia. Laws of Ia. Ch. 297, s. 1. No person under 14 allowed to carry firearms of any kind.

Md. Code Vol. 3, Art. 27, s. 357. Unlawful for any one to sell, barter, or give away pistol to minor under age of 21. Punishment for violation \$50-\$200.

Mass. Gen. Laws, Ch. 485, s. 130 (as amended 1922). Whoever sells or furnishes firearm to a minor under 15 shall be punished by a fine of \$10-\$50, "but instructors and teachers may furnish military weapons to pupils for instruction and drill."

Mich. P. A. 1883, Act 138. s. 1. No person shall sell, give, or furnish to any child under the age of 13 years any pistol, etc.

Violation a misdemeanor punishable by \$10-\$50 or 10-90 days or both.

Minn. Rev. St. 1905, s. 4996. Any one "who, in any city of this State, without a written consent of a magistrate, sells or gives any pistol or firearm to any person under 18 years, is guilty of a gross misdemeanor."

Miss. Laws 1912, Ch. 210, s. 833. Not lawful "to sell, give, or loan to any minor or person intoxicated" any firearm or "pistol cartridge." For violation fine of \$25-\$200, or not more than 3 months or both. *Ibid.* s. 834. Any father who permits son under 16 "to have or to own or to carry concealed" firearm guilty of misdemeanor punishable by \$20-\$200 or not more than 60 days or both.

N. H. Act May 4, 1923. Identical with proposed section and s. 9 of Revolver Act except that punishment for violation is fixed at maximum of \$100 or — and 3 months and that exception is made in favor of "fathers, mothers, guardians, administrators, or executors" in giving to their "children, wards or heirs to an estate."

N. J. Laws 1912, Ch. 225, s. 2. Selling, etc., to person under 21 years misdemeanor, except that person between 16 and 21 may with consent in writing of parent or guardian obtain same.

N. Y. Birdseye, etc. Cons. Laws, Vol. 13, 2d. Ed. p. 1570, s. 2. Any person under 16 carrying or having firearm guilty of juvenile delinquency.

N. D. Act 1923, s. 9. Identical with proposed section and with s. 9 of Revolver Act.

Okla. R. L. Ch. 6, Art. XLIV, s. 1993. Unlawful to sell, or give firearm to minor. s. 1996. Violation misdemeanor punishable by \$25-\$50 or not more than 30 days, or both.

Utah. Penal Code s. 8494. Selling or giving firearm to minor under 14 a misdemeanor. s. 8495 a misdemeanor for a minor under that age to possess such.

Vt. Vt. St. s. 6843. A person "other than parent or guardian who sells or furnishes to a minor under the age of 16" punishable by \$10-\$50. Does not apply to instructor who furnishes firearms to pupil for drill. *Ibid.* s. 6844. Child under 16 shall not possess firearm without consent of parent or guardian. Violation constitutes juvenile delinquency.

Va. Code s. 4695. Furnishing firearm to minor under 18 years a misdemeanor punishable by \$2.50-\$100.

Wyo. Comp. Sts. s. 5900. Unlawful "to sell, barter or give" a pistol to person under 21, or to person under 16 any cartridges designed for use in a pistol.

1 SECTION 9. *Sales Regulated.* No person shall sell, de-
2 liver, or otherwise transfer a pistol or revolver to a person who
3 he has reasonable cause to believe has been convicted of a felony
4 against the person or property of another, or against the Govern-
5 ment of the United States or any State or subdivision thereof, nor
6 in any event shall he deliver a pistol or revolver on the day of
7 the application for the purchase thereof, and when delivered, said
8 pistol or revolver shall be securely wrapped and shall be unloaded.
9 Before a delivery be made the purchaser shall sign in triplicate and
10 deliver to the seller a statement containing his full name, address,
11 occupation, and nationality, the date of sale, the caliber, make,
12 model, and manufacturer's number of the weapon. The seller shall,
13 within [seven] days, sign and forward by registered mail one copy
14 thereof to [the Secretary of State], and one copy thereof to the
15 chief of police of the city or town or the sheriff of the county of
16 which the seller is a resident, and shall retain the other copy for
17 six years. This section shall not apply to sales at wholesale.
18 Violations of this section shall be punished by a fine of not less
19 than (\$100) or by imprisonment for not less than [one year] or by
20 both such fine and imprisonment.

Note. The above section applies to sellers whether dealers or not. The formalities to be observed are repeated together with other requirements in s. 11 *infra* referring specifically to dealers.

The proposed section is identical with s. 10 of the Revolver Act (p. 39, *infra*), except that it omits references to aliens, and after the sentence ending with the word wholesale in Line 17 it omits the next sentence occurring in the Revolver Act, to wit: "Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him."

Cal. Act 1923, s. 10. Similar to s. 10 Revolver Act and therefore resembles proposed section and differs from it as stated in Note above.

Conn. Act June 2, 1923, s. 2. Forbids sale or delivery without a license to sell, applying to dealers and others alike. s. 3 allows local officers to license sale. s. 5. provides method of sale. s. 7 forbids sale to alien.

D. C. Capper Bill, s. 9. Similar with s. 10 Revolver Act and therefore differs from proposed section and resembles it as stated in Note above.

Ind. Act 1925, s. 9. Similar to s. 10 of Revolver Act and therefore differs from proposed section and resembles it as stated in Note above.

Ia. Laws of Ia., 1913, s. 10. Seller must report sale within 24 hours to county recorder with age, occupation, name and residence of purchaser, with description of weapon. Violation a misdemeanor.

Md. Up to February, 1925, Maryland had no act governing sale of firearms. There was pending at that time in the City Council of Baltimore a proposed ordinance to make it unlawful to "offer for sale, sell, give, purchase or loan" a pistol or revolver without a permit from Police Commissioner. Penalty to "purchaser, borrower, or donee" \$500.

N. H. Act May 4, 1923. Resembles in main language of s. 10 of Revolver Act except that it requires a *permit to purchase*. Punishment not more than \$100 or — and 1 year. Resembles proposed section.

N. D. Act 1923, s. 10. Identical with s. 10 of Revolver Act and therefore differing from and resembling proposed section as stated in Note above.

Ore. Laws 1913, Ch. 256, s. 1. (Oregon Laws s. 9671.) Forbids a sale to any one—with certain exceptions—unless purchaser has a *license to purchase*.

1 SECTION 10. *Dealers to be Licensed.* Any retail dealer
2 who, without being licensed as hereinafter provided, sells, or other-
3 wise transfers, advertises, or exposes for sale, or transfer or has
4 in his possession with intent to sell, or otherwise transfer, pistols
5 or revolvers, shall be punished by [imprisonment for not less than
6 two years].

Note. Identical with s. 11 of Revolver Act (p. 40, *infra*) except that for the first word "Whoever" occurring in the latter are substituted the words "Any retail dealer who—" (Lines 1-2, *supra*).

Cal. Act 1923, s. 12. Similar to proposed s. 10; identical with s. 11 of Revolver Act, except that violation is specified to be a misdemeanor.

Conn. Act June 2, 1923, s. 3 requires permit to sell to be obtained by dealer and private person alike.

D. C. Code s. 857. Dealer to be licensed by Commissioners of District of Columbia upon filing bond with sureties to comply with conditions of license. Dealing without a license is a misdemeanor punishable by \$100-\$500, one-half of which to be paid to informer, or not more than 6 months. Written register required with usual data to be entered. Reports to be made to police once a month. Failure to keep register or make reports punishable by fine of not more than \$100.

Capper Bill, s. 10. Similar to proposed s. 10; identical with s. 11 of Revolver Act with minor verbal change.

Ind. Act 1925, s. 10. Similar to proposed s. 10; identical with s. 11 of Revolver Act except that violation is defined as *felony* and punishment is fixed at not less than one nor more than two years.

Ia. Laws 1913, s. 9. Unlawful to deal in firearms without license. No punishment for violation specified.

Mass. Gen. Laws, Ch. 485, ss. 122 and 122A (As amended 1922). Licensing authorities in any town may in their discretion grant licenses to persons to sell, rent or lease firearms. Licensing authorities to keep records of licenses thus issued in books to be supplied by Commissioner of public safety. *Ibid.* s. 128. Whoever sells or exposes for sale without a license shall be punished by \$50-\$500 or by imprisonment for not more than 1 year.

N. H. Act May 4, 1923, s. 9. Identical with s. 11 of Revolver Act and proposed section except for difference pointed out in Note above and except that punishment for violation is fixed at not more than 2 years.

N. D. Act 1923, s. 11. Identical with s. 11 of Revolver Act and therefore identical with proposed section except as stated in Note above.

Va. Code s. 140 (1915 p. 232). No person shall sell pistols without procuring a license.

1 SECTION 11. *Dealers Licenses; By Whom Granted, And*
2 *Conditions Thereof.* The duly constituted licensing authorities of
3 any city, town or political subdivision of this State, may grant
4 licenses in form prescribed by [the Secretary of State], effective
5 for not more than one year from date of issue, permitting the
6 licensee to sell at retail within the said city or town or political
7 subdivision, pistols and revolvers, subject to the following con-
8 ditions, for breach of any of which the license shall be subject
9 to forfeiture:

10 1. The business shall be carried on only in the building
11 designated in the license.

12 2. The license or a copy thereof, certified by the issuing
13 authority, shall be displayed on the premises where it can easily
14 be read.

15 3. No pistol or revolver shall be delivered—

16 (a) On the day of the application for the purchase, and
17 when delivered shall be unloaded and securely wrapped; nor

18 (b) Unless the purchaser either is personally known to
19 the seller or shall present clear evidence of his identity; nor

20 (c) If the seller has reasonable cause to believe that
21 the purchaser either has been convicted of a felony against the
22 person or property of another, or against the Government of the
23 United States or any State or subdivision thereof.

24 4. A true record, in triplicate, shall be made of every
25 pistol or revolver sold, said record to be made in a book kept for
26 the purpose, the form of which may be prescribed by [the Secretary
27 of State], and shall be personally signed by the purchaser and by
28 the person effecting the sale, each in the presence of the other,
29 and shall include the date of sale, the caliber, make, model and
30 manufacturer's number of the weapon, the name, address, occupa-
31 tion and nationality of the purchaser. One copy of said record shall,
32 within [7] days be forwarded by registered mail to [the Secretary
33 of State] and one copy thereof to the chief of police of the city
34 or town or the sheriff of the county of which the seller is a
35 resident, and the other copy retained for six years.

36 5. No pistol or revolver, or imitation thereof, or placard
37 advertising the sale or other transfer thereof, shall be displayed

38 in any part of said premises where it can readily be seen from the
39 outside.

40 No license to any one to sell at retail shall be granted ex-
41 cept as provided in this section. Violation of this section shall
42 be punished by [imprisonment for not more than one year].

Note. The proposed section is identical with s. 12 of Revolver Act except for the additional reference in 3 c of the latter to aliens and the addition of the last paragraph of the proposed section (Lines 40-42) fixing a penalty for the violation of the section. The various local laws summarized below generally, like the proposed section, apply only to retail dealers and not to wholesalers, some of the laws specifically excepting the latter.

Cal. Act 1923, s. 11. Identical with s. 12 of Revolver Act except that it omits 3c. It is thus similar to proposed section to the extent that the latter resembles the said section of Revolver Act.

Colo. Ann. Sts. s. 2595-C. Record to be kept by dealer of each firearm "sold, rented or exchanged at retail." Violation expressly made misdemeanor. Punishable by \$25-\$100 and—or not more than one year.

Conn. Act June 2, 1923, s. 5. The vendor shall keep a record of every pistol or revolver sold in book of a form prescribed by the superintendent of state police, containing all data necessary for the information of the authorities, which shall be signed by the vendor and vendee and kept for six years.

Ind. Act 1925, s. 11. Identical, with minor verbal variations, to s. 12 of Revolver Act. It is thus similar to proposed section to extent that latter resembles the section named of Revolver Act, as stated in Note above.

Me. Rev. St. Ch. 44, s. 39. Record required of all firearms sold. Penalty for failure by dealer \$50.

Mass. Gen. Laws, Ch. 485 ss. 122, 122A, 123 (As amended 1922). Licenses to be issued to dealer as stated in summary to s. 10 of Tentative Act. License subject to conditions (1) Provisions as to nature of license and place of business to be strictly adhered to; (2) that license shall obtain usual description of purchaser; (3) that dealer's license shall be displayed on premises; (4) that no firearms shall be displayed in open window or where they can be readily seen from outside; (5) that licensee shall send each week copy of records

of sales to licensing authorities and to commissioner of public safety; (6) that every firearm sold shall be securely wrapped and unloaded; (7) that no delivery shall be made on day of purchase except to one having license to carry under s. 131; (8) that dealer's license shall be subject to forfeiture for breach of these conditions.

Mich. Howell's St. s. 15247. Provides for the registration by seller of the purchaser of firearms and silencer or be deemed guilty of a misdemeanor. Penalty, fine not over \$50 or confinement not over 10 days or both.

N. H. Act May 4, 1923, s. 10. Resembles s. 12 of Revolver Act except that dealers may sell only to persons having *permit to purchase*. Otherwise resembles and differs from proposed section as in Note above.

N. J. Act March 11, 1924 (Ch. 137 Laws 1924) s. 3. Every dealer must keep a register in duplicate, the form to be prepared by the Secretary of State, and distributed by the clerk of the municipality. At the close of each day the duplicate must be given to the police, *Ibid.* s. 4. No sale shall be made after 3 p. m., and no delivery made for 24 hours after sale.

N. Y. Birdseye's etc. Cons. Laws Vol. 13, 2d Ed. p. 1570, s. 12. All applications for license, if granted, shall be filed with the official issuing the license and it shall be misdemeanor for any one to provide another with a pistol or revolver without removing the coupon attached to the license.

N. D. Act 1923, s. 12. Identical with s. 12 of Revolver Act, thus resembling and differing from to extent that latter does the proposed section.

Ore. Laws 1913, Ch. 256, s. 3. (Ore. Laws s. 9673) Dealer to keep record of name, etc. of purchase and transmit information to sheriff on 1st and 15th of each month. Violation a misdemeanor. *Ibid.* s. 9684 requires dealer to keep register, form to be obtained from State printer, in which with usual information as to purchaser must be entered latter's "height, color of skin, color of eyes, color of hair, etc." Failure to keep register a misdemeanor. Punishment \$100-\$500 or—and 30 days—1 year.

- 1 SECTION 12. *Penalty for False Information.* If any
- 2 person in purchasing or otherwise securing delivery of a pistol or
- 3 revolver or in applying for a permit to carry the same, shall give

4 false information or offer false evidence of his identity, he shall
5 be punished by [imprisonment for not less than five nor more than
6 ten years].

Note. Identical, except for insertion of brackets, with s. 13 of Revolver Act. (p. 41, *infra*.)

Cal. Act 1923. Contains no section similar to above nor similar to corresponding s. 13 of Revolver Act.

Conn. Act June 2, 1923, s. 8. Similar to proposed section. S. 12 fixes punishment for violation at not more than \$500 or—and not more than 3 years. Confiscation provision added.

D. C. Capper Bill, s. 12. Practically identical with proposed section, except as to punishment for violation which is fixed at not less than two nor more than five years.

Ill. Act July 11, 1919, s. 6; Rev. St. 1921, Par. 139. Provides that any person falsely swearing or affirming regarding his application for license to carry firearms, shall be guilty of perjury and punished by State law.

Ind. Act 1925, s. 12. Practically identical with proposed section and with corresponding s. 13 of Revolver Act except that violation is specified to be a felony punishable by not less than one nor more than five years.

Me. Rev. Stat. 1913, Ch. 44, s. 39. Provides that persons giving false or fictitious names to dealer shall be punished by a fine not exceeding \$50.

Mass. Gen. Laws, Ch. 485, s. 129. Any person who in "purchasing, exchanging or hiring a firearm gives a false or fictitious name or address" shall be punished by \$25-\$100 or—and not more than 1 year.

N. H. Act May 4, 1923, s. 11. Identical with proposed section and s. 13 of Revolver Act except that punishment for violation is fixed at not more than 2 years.

N. J. Act March 11, 1924 (Ch. 137, Laws 1924) s. 3. Provides that any person giving false name or address in connection with purchasing pistol shall be guilty of a high misdemeanor.

N. D. Act 1923, s. 13. Identical with proposed section and with s. 13 of Revolver Act.

Ore. Laws 1917, Ch. 377, s. 1 (Oregon Laws s. 9684). Purchasers giving fictitious names and addresses shall be guilty of a mis-

demeanor. Punishment: \$100-\$500 and—or imprisonment 30 days-1 year.

1 SECTION 13. *Alteration of Identifying Marks Prohibited.*
2 No person shall change, alter, remove, or obliterate the name of
3 the maker, model, manufacturer's number, or other mark of identi-
4 fication on any pistol or revolver. Possession of any such fire-
5 arm upon which the same shall have been changed, altered, removed,
6 or obliterated, shall be presumptive evidence that such possessor
7 has changed, altered, removed or obliterated the same. Violations
8 of this section shall be punished by [imprisonment for not less
9 than one year nor more than five years].

Note. The proposed section is identical except for insertion of brackets with s. 14 of Revolver Act. (p. 41, *infra*.)

Cal. Act 1923, s. 13. Identical with proposed section and corresponding section of Revolver Act.

Conn. Act June 2, 1923, s. 11. Same general provision as proposed section. Punishment by s. 12 not more than \$1,000 or—and not more than 5 years.

D. C. Capper Bill, s. 13. Identical with proposed section and corresponding section of Revolver Act except that punishment for violation is fixed at not less than one year.

Ind. Act 1925, s. 13. Identical with proposed section and corresponding section of Revolver Act except that Indiana law substitutes for word "presumptive" in Line 6 above the words *prima facie*, and specifically defines a violation as a misdemeanor fixing punishment at not less than six months nor more than one year.

N. H. Act May 4, 1923, s. 12. Identical with proposed section and with s. 14 of Revolver Act except that punishment for violation is fixed at not more than \$200 or—and not more than 1 year.

N. J. Act March 11, 1924 (Ch. 137 Laws 1924) s. 6. Any person disfiguring or altering a serial number on a pistol or revolver, or having such revolver in his possession, guilty of a high misdemeanor.

1 [SECTION 14. *Existing Licenses Revoked.* All licenses
2 heretofore issued within this State permitting the carrying of
3 pistols or revolvers concealed upon the person shall expire at
4 midnight of 192.]

Note. Except for brackets identical with s. 15 of Revolver Act.

Cal. Act 1923, s. 14. Identical.

D. C. Capper Bill, s. 14. Identical.

Ind. Act 1925, s. 16. Existing licenses void after thirty days from time act takes effect.

N. H. Act May 4, 1923, s. 13. Identical except for brackets with proposed section and s. 15 of Revolver Act.

N. D. Act 1923, s. 15. Identical except for brackets with proposed section and s. 15 of Revolver Act.

- 1 SECTION 15. *Exceptions.* This Act shall not apply to
2 antique pistols or revolvers incapable of use as such.

Note. The proposed section is identical with s. 16 of Revolver Act (p. 42, *infra.*).

Cal. Act 1923, s. 15. Identical with proposed section.

Colo. Laws s. 2595A, s. 1. Excepts antique arms which is one for which ammunition is not sold.

D. C. Capper Bill, s. 15. Identical with proposed section.

Ind. Act 1925, s. 15. Identical with proposed section.

Mass. Gen. Laws Ch. 485 s. 121 (As amended 1922). Same exception.

N. H. Act May 4, 1923, s. 14. Identical with proposed section.

N. D. Act 1923, s. 16. Identical with proposed section.

- 1 SECTION 16: *Certain Acts Repealed.* All laws or parts
2 of laws inconsistent herewith are hereby repealed.

Note: The above section is identical with s. 17 of Revolver Act (p. 42, *infra.*).

Cal. Act 1923, s. 17. Repeals specifically certain former act named.

D. C. Capper Bill, s. 16. Repeals specific acts and other inconsistent acts.

Ind. Act 1925, s. 18. Practically identical.

N. H. Act May 4, 1923, s. 15. Identical with proposed section and s. 17 of Revolver Act.

N. D. Act 1923, s. 17. Identical with proposed s. 17 of Revolver Act.

Appendix

A. RESTRICTIONS AGAINST POSSESSION OF FIREARMS

BY ALIENS

Special restrictions against the carrying of firearms by aliens appear in the laws of the following States:

Cal. Act 1923, s. 2. Provides that unnaturalized foreign-born persons shall not own or possess any firearm under penalty of 1-5 years imprisonment.

D. C. Capper Bill, s. 11-3c. Provides that any dealer who knowingly sells firearms to unnaturalized foreign-born citizen shall have his license revoked. The Capper Bill does not, however, contain a section equivalent to s. 5 of Revolver Act prohibiting aliens from possessing firearms.

Ind. Act 1925, s. 11. Provides that no licensed dealer shall knowingly deliver any firearm to any unnaturalized foreign-born person, subject to forfeiture of the license.

Ky. Statutes. s. 13761-1. Provides that it shall be unlawful for any citizen or subject of a nation with whom the United States is at war to have firearms of any kind in his possession or control.

Mass. Laws, Ch. 140, s. 129A. Provides that no unnaturalized foreign-born person shall own or have in his possession or control a firearm, unless such person has a permit.

Nev. Act March 3, 1925, s. 2. Provides that no unnaturalized foreign-born person shall own or possess a firearm capable of being concealed.

N. H. Act May 4, 1923, ss 3 & 10. Provide that no unnaturalized foreign-born person without permit shall own or possess any pistol or revolver, under penalty of not more than 2 years imprisonment.

N. Y. Birdseye, etc. Laws, Vol. 13, p. 1570, s. 6. Provides that any person not a citizen of the United States shall be guilty of misdemeanor if he has or carries a firearm, and a felony if he has been previously convicted of a crime.

N. D. Act 1923, s. 5. Provides that no unnaturalized foreign-born person shall own or possess any pistol or revolver under penalty of not exceeding 5 years imprisonment.

Pa. Game Laws, Art IX, s. 902 *et seq.* Provides that unnaturalized foreign-born persons shall not hunt or keep firearms.

Utah. Laws 1917, Title 32, s. 2600. Provides that it shall be unlawful for any unnaturalized foreign-born person to hunt, or keep or own firearms of any kind or make.

Wash. Laws 1911, Ch. 52, s. 1. p. 303. Provides that it shall be unlawful for any person not a citizen of the United States or who has not declared his intention to become such to carry or have in his possession any firearm without a permit.

B. PENALTIES FOR POINTING FIREARM AT ANOTHER

Provisions for penalties for the intentional pointing of a firearm at another or in another's direction appear in the statutes of the following States:

Del. Del. Laws, Vol. 16, Ch. 548, s. 3 (4802). Provides that any person intentionally pointing a firearm toward another person, in jest or otherwise, shall be fined from \$10-\$100, and if death results, the person pointing shall be guilty of manslaughter if the killing does not amount to murder. (See also s. 4802, Del. Code.)

Me. Laws 1917, ch. 217, s. 1. Provides that no person shall display any firearm in a threatening manner.

Okla. Code s. 1999. Provides that it shall be unlawful for any person to point a firearm at another, whether loaded or not, in anger or otherwise.

Vt. Gen. Laws s. 6846. Provides that any person intentionally without malice pointing a firearm toward another shall be fined from \$5-\$50. If he discharges a firearm so pointed without injury to another he shall be imprisoned not more than 1 year, or fined not more than \$100, or both.

C. REGULATION BY PRESCRIBING STANDARD MAKE OF FIREARMS

A bill commonly known as the "Shields' Bill" was introduced in the United States Senate (67th Cong.—1st Sess., S. 1184) on April 25th, 1921, which was intended to suppress the sale of such firearms as are commonly used in the commission of felonious homicides and assaults, by limiting traffic within the District of Columbia and

between the States to firearms of standard Army and Navy makes. The provisions of the proposed bill were as follows:

"SEC. 1. That it shall be unlawful for any person or corporation to deliver, or cause to be delivered, to any common carrier, or to deposit in the mails of the United States, to be carried from any State or Territory of the United States or the District of Columbia to another State or Territory of the United States, or from any State or Territory to the District of Columbia, for the purpose of sale, or in the performance of a contract of sale, a pistol, revolver, or other firearm of like form, size, or description, except those which for the time being have been adopted and are commonly used in the Army and Navy of the United States, under the rules and regulations of the constituted authorities of the Departments of War and Navy.

"SEC. 2. That it shall be unlawful for any person or corporation engaged in the business of a common carrier in interstate commerce to receive for transportation, or to transport from any State or the District of Columbia to another State, or from a State to the District of Columbia, a pistol, revolver, or other firearm of like form and size described in the first section of this Act.

"SEC. 3. That any person or corporation, or their agents or employees, violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and the offending party fined not less than \$100 nor more than \$500, and, if a person, imprisoned not less than thirty days nor more than six months, in the discretion of the court."

The bill was the subject of a hearing by a sub-committee of the committee on the Judiciary at Washington, D. C., on June 28th, 1921, at which were present a number of the leading arms manufacturers of the country, Mr. Nathaniel C. Nash, Jr., legislative counsel for the United States Revolver Association, and others interested in the regulation of traffic in firearms. The bill was not enacted into law.

An examination of the various State laws in this country fails to show any similar attempt to limit firearms to standard Army and Navy makes. It may be noted, however, that in the laws of Tennessee (Shannon's Ann. Code, s. 6643) in provisions heretofore cited naming exceptions of persons and classes from the prohibition against carrying concealed weapons, it is provided that where persons employed in the Army, Navy or Marine Corps are excepted, they are excepted only as regards such firearms as are provided by Army and Navy regulations.

D. LAWS FOR CONFISCATING FIREARMS ILLEGALLY POSSESSED

Provisions for the confiscation of weapons carried in violation of law appear in the statutes of the following States:

Ala. Act Aug. 9, 1919, s. 3. Provides that any person having in his possession a firearm without a permit to carry same, such firearm shall be taken by the sheriff and publicly destroyed.

Cal. Act 1923, s. 7. Provides that weapons unlawfully carried or concealed are nuisances, and unless the Court orders the same to be preserved, they shall be destroyed between 1st and 10th of July of each year. Stolen weapons to be returned to the owners thereof.

Conn. Act June 2, 1923. Provides that firearms found in possession of any person in violation of law shall be forfeited.

D. C. Capper Bill, s. 5. Provides that weapons illegally carried shall be confiscated and destroyed.

Ind. Rev. St. s. 2345. Provides that any person carrying concealed weapon in violation of law shall be arrested and the weapon taken away and turned over to the sheriff and destroyed by him upon receiving an order of the Court to that effect.

Act 1925, s. 5. Provides that where persons are convicted of unlawfully carrying concealed weapons, the sheriff shall confiscate and destroy same when ordered by the Court.

Mass. Gen. Laws Ch. 1145, s. 17. Provides that when any firearm is seized as being illegally carried, the same shall be sold, at the discretion of the director who shall pay the proceeds to the commonwealth.

N. H. Act May 4, 1923, s. 3. Provides that when aliens and persons formerly convicted of a felony have in their possession a firearm, the weapon shall be confiscated and destroyed.

N. D. Act 1923, s. 6. Provides that weapons of persons illegally carrying concealed pistol or revolvers on their persons or in vehicles shall be confiscated and destroyed.

R. I. Gen. Laws 1896, ss. 24-25. Provides that weapons illegally carried shall on conviction of person so carrying same be confiscated.

S. C. Acts 1880, No. 362, s. 1. Provides that any person convicted of carrying concealed weapons contrary to law, shall forfeit the weapon so concealed to the County.

Utah. Comp. Laws 1917, Title 32, s. 2601. Provides that any alien carrying any firearm shall have same seized and forfeited to the State, sold at the discretion of the commissioner and the proceeds turned over to the fish and game fund of the State of Utah.

E. UNITED STATES REVOLVER ASSOCIATION ACT

The following is the complete text of the bill advocated by the United States Revolver Association, the model upon which the Tentative Draft herein is based:

SECTION 1. DEFINITION.—“Pistol or revolver,” as used in this Act, shall be construed as meaning any firearm with barrel less than twelve inches in length.

SECTION 2. COMMITTING CRIME WHEN ARMED.—If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall in addition to the punishment provided for the crime, be punished by imprisonment for not less than five nor more than ten years.

SECTION 3. PUNISHMENT.—The judge shall have the power to sentence any person who may be convicted for a second or third offense under section 2, of this Act, to double and triple the penalty imposed thereby, and for a fourth offense the person so convicted may be sentenced to perpetual imprisonment.

SECTION 4.—BEING ARMED PRIMA FACIE EVIDENCE OF INTENTION.—In the trial of a person for the commission of a felony or of an attempt to commit a felony against the person of another, the fact that he was armed with a pistol or revolver and having no permit to carry the same shall be prima facie evidence of his intention to commit said felony.

SECTION 5. ALIENS AND CRIMINALS MUST NOT POSSESS ARMS.—No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the Government of the United States or of any State or subdivision thereof, shall own or have in his possession or under his control, a pistol or revolver. Violations of this section shall be punished by imprisonment for not less than five years.

SECTION 6. CARRYING PISTOL CONCEALED.—No person shall carry a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by imprisonment for not less than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed.

SECTION 7. EXCEPTIONS.—The provisions of the preceding section shall not apply to marshals, sheriffs, policemen, or other duly appointed peace officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or this State, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.

SECTION 8. ISSUE OF LICENSES TO CARRY.—The justice of a court of record, the chief of police of a city or town and the sheriff of a county, or persons authorized by any of them, shall, upon the application of any person having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a firearm concealed upon his person issued by the authorities of any State or subdivision of the United States, issue a license to such person to carry a pistol or revolver within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State, and the triplicate shall be preserved for six years by the authority issuing said license.

SECTION 9. SELLING TO MINORS.—Any person or persons who shall sell, barter, hire, lend or give to any minor under the age of eighteen years any pistol or revolver shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined not less than \$100 nor more than \$1,000, or be imprisoned for not less than three months, nor more than one year, or both.

SECTION 10. SALES REGULATED.—No person shall sell, deliver, or otherwise transfer a pistol or revolver to a person who he has

reasonable cause to believe either is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward by registered mail one copy thereof to the Secretary of State, and one copy thereof to the chief of police of the city or town or the sheriff of the county of which the seller is a resident, and shall retain the other copy for six years. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not less than \$100 or by imprisonment for not less than one year, or by both such fine and imprisonment.

SECTION 11. DEALERS TO BE LICENSED.—Whoever, without being licensed as hereinafter provided, sells, or otherwise transfers, advertises, or exposes for sale, or transfer or has in his possession with intent to sell, or otherwise transfer, pistols, or revolvers, shall be punished by imprisonment for not less than two years.

SECTION 12. DEALERS' LICENSES; BY WHOM GRANTED, AND CONDITIONS THEREOF.—The duly constituted licensing authorities of any city, town or political subdivision of this State, may grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered—

(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor

(b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor

(c) If the seller has reasonable cause to believe that the purchaser either is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof.

4. A true record, in triplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Secretary of State, and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, occupation, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the Secretary of State and one copy thereof to the chief of police of the city or town or the sheriff of the county of which the seller is a resident, and the other copy retained for six years.

5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

SECTION 13. PENALTY FOR FALSE INFORMATION.—If any person in purchasing or otherwise securing delivery of a pistol or revolver or in applying for a permit to carry the same, shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not less than five nor more than ten years.

SECTION 14. ALTERATION OF IDENTIFYING MARKS PROHIBITED.—No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations

of this section shall be punished by imprisonment for not less than one year nor more than five years.

SECTION 15. EXISTING LICENSES REVOKED.—All licenses heretofore issued within this State permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of December 31, 1923.

SECTION 16. EXCEPTIONS.—This Act shall not apply to antique pistols or revolvers incapable of use as such.

SECTION 17. CERTAIN ACTS REPEALED.—All laws or parts of laws inconsistent herewith are hereby repealed.

Note. This measure is approved by the United States Revolver Association, 14 West Forty-eighth Street, New York, N. Y.

APPENDIX F

to

SECOND REPORT OF THE COMMITTEE ON A UNIFORM ACT TO REGULATE THE SALE AND POSSESSION OF FIREARMS THE NEW YORK "SULLIVAN LAW"

1. Any person who attempts to use against another, or who carries, or possesses, any instrument or weapon of the kind commonly known as blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a misdemeanor, and if he has been previously convicted of a crime is guilty of a felony.

2. A person who carries or possesses a bomb or bomb-shell or who, with intent to use the same unlawfully against the person or property of another, carries or possesses any explosive substance, is guilty of a felony.

3. Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease, or give to him, shall be guilty of juvenile delinquency.

4. Any person over the age of sixteen years who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him as hereinafter prescribed, shall be guilty of a misdemeanor, and if he has been previously convicted of any crime he shall be guilty of a felony.

5. Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village or town of this

state, any pistol, revolver, or other firearm without a written license therefor, issued as hereinafter prescribed and licensing such possession and concealment, shall be guilty of a misdemeanor, and if he has been previously convicted of any crime he shall be guilty of a felony.

6. Any person not a citizen of the United States, unless authorized by license issued as hereinafter prescribed, who shall have or carry firearms, or any dangerous or deadly weapons in any place, at any time, shall be guilty of a misdemeanor, and if he has been previously convicted of any crime he shall be guilty of a felony.

7. It shall be the duty of the police commissioner in the City of New York or of any magistrate elsewhere in this state to whom an application therefor is made by a commissioner of correction of the city or by any warden, superintendent, or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted of or accused of crime, or offences, or held as witnesses in criminal cases, to issue to each of such persons as may be designated in such application, and who is in the regular employ in such institution of the state, or of any county, city, town or village therein, a license authorizing such person to have and carry concealed a pistol or revolver while such persons remain in the said employ.

8. It shall be the duty of the police commissioner in the City of New York and elsewhere of a judge or justice of a court of record in this state, upon application therefor by any householder, merchant, storekeeper or messenger of any banking institution or express company in the state, and provided such police commissioner, judge or justice is satisfied of the good moral character of the applicant, and provided that no other good cause exists for the denial of such application, to issue to such applicant a license to have and possess a pistol or revolver, and authorizing him

(a) if a householder, to have such weapon in his dwelling, and

(b) if a merchant, or storekeeper, to have such weapon in his place of business, and

(c) if a messenger of a banking institution or express company, to have and carry such weapon concealed while in the employ of such institution or express company.

9. In addition it shall be lawful for the police commissioner in the City of New York or elsewhere in this state, for a judge or justice of a court of record, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon, provided, however, that no such license shall be issued to any alien, or to any person not a citizen of and usually a resident in the State of New York, except by the police commissioner in the City of New York and elsewhere by a judge or justice of a court of record in this state, who shall state in such license the particular reason for the issuance thereof, and the names of the persons certifying to the good moral character of the applicant.

10. The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the City of New York in the case of the police commissioner of such city. Such judge, justice or officer shall collect a fee of fifty cents for each license issued and shall pay the same into the treasury of the county or of such city, as the case may be. The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the county clerk of the county where the applicant resides, within ten days after the issuance of the license. Any such license may be limited as to the date of expiration thereof and may be vacated and canceled at any time by the police commissioner or elsewhere than in the City of New York, by any judge or justice of a court of record.

Penal Law, Sec. 1897, subdivision 10 as amended by Laws 1922, Chapter 198.

11. The conviction of a licensee of a felony in any part of the state shall operate as a revocation of the license. Any license

issued in pursuance of this section and not otherwise limited as to place or time of possession of such weapon, shall be effective throughout the State of New York, notwithstanding the provisions of any local law or ordinance.

12. All licenses issued pursuant to the provisions of this section shall be in such form that there shall be attached to the body of such license a coupon which shall be removed and retained by any person who sells or otherwise provides the licensee with any weapon contemplated in such license. Any dealer or other person who sells, gives, or otherwise provides a person with any pistol, revolver or other firearm, except upon the presentation, removal and retention of such coupon, shall be guilty of a misdemeanor.

13. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, policemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

New York Penal Law, Section 1897 as amended by L. 1911, Ch. 195, and L 1913, Ch. 608, and L 1915, Ch. 390, and L 1917, Ch. 580, and L 1919, Ch. 413, and L 1921, Ch. 297, in effect April 21, 1921.

REPORT
of
THE COMMITTEE ON AN ACT TO MAKE UNIFORM THE
LAW OF THE SEVERAL STATES RELATING TO
THE EXTRADITION OF PERSONS
CHARGED WITH CRIME

To the National Conference of Commissioners on Uniform State Laws:

The first special committee to consider and report upon the desirability of a uniform law upon the extradition of persons charged with crime was appointed at Cincinnati in 1921, and the Committee unanimously decided in favor of drafting such a law, and reported a first tentative draft to the Conference in San Francisco in 1922.

This draft was there considered and various suggestions were made; but the consideration was not complete.

A new committee and a new draft was prepared for submission at Philadelphia in 1924 (Proceedings 1924, pp. 749-759); but owing to the lateness of the filing of the report, it was not printed prior to the meeting, and therefore was not considered there, but was referred to a new committee. This new Committee has made considerable changes in the manuscript as received by them, and now offer it to the Conference under the name of the third tentative draft.

In this draft many of the suggestions made at San Francisco have been incorporated; but a good many have been rejected. The most important rejection is probably the refusal to include informations by prosecuting attorneys as bases for requisitions. The reasons for refusing this suggestion are those given by the text books on the subject of extradition—that mere information and belief are not sufficient to remove an accused person from one state to another, and the important fact that the federal statute does not permit it.

Another notable suggestion made at San Francisco, but now rejected, is the suggestion to incorporate the rules fixed by the

Interstate Extradition Conference in 1887, as a part of the proposed Uniform Act. And the reasons for that rejection are, (1) that the rules are not as systematic as our Acts usually provide, so that they would have to be recast, (2) that they have not been formally adopted in limine anywhere; and (3) that they are substantially incorporated in the various parts of the proposed draft anyway; so that to make them a formal part in addition would be largely repetition.

This draft, like the first, is based generally on a textbook by James A. Scott of the Chicago Bar, published in 1917; and follows him in suggesting that the subject be called Interstate Rendition, and not extradition. Several excellent suggestions of Mr. James E. Markham, assistant attorney-general of Minnesota, have been incorporated in this draft, having come too late to be included in the first draft.

The most important basic fact to remember in connection with any proposed unification of the law on interstate extradition of persons charged with crime, is that the Constitution of the United States creates the power to extradite and outlines the field in which it may operate. Then the Act of Congress of 1793, brought forward as U. S. R. S. 5278, 5279, gives it a partial interpretation.

The Constitution provides that,

"A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime." (Sec. 2 of Article VI.)

The sections of U. S. R. S. above referred to read as follows:

"5278. Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any state or territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any state or territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the Governor or Chief Magistrate of the state or territory from whence the person so charged has fled; it shall be the duty of the executive authority of the state or territory to which such person has fled to cause him to be arrested and secured, and to cause notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall

appear. If no such agent appears within six months from the time of the arrest, the prisoner may be discharged. All costs and expenses incurred in the apprehending, securing and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

"5279. Any agent so appointed who receives the fugitive into his custody, shall be empowered to transport him to the State or Territory from which he has fled. And every person who by force, sets at liberty or rescues the fugitive from such agent while so transporting him, shall be fined not more than five hundred dollars or imprisoned not more than one year."

These two statements are the law of the land, and cannot be contradicted; and Congress has never seen fit even to amplify them.

It has been recognized for many years, however, that the states may add provisions which are not in conflict with the Constitution and the Act of Congress.

Thus it is recognized that the states can legislate, (1) upon the subject of arresting fugitives from justice before the demand for extradition can be made; (2) upon the procedure in arresting the fugitive after demand made; (3) upon the method of determining whether the accused is a fugitive from justice; (4) upon the method of identifying an alleged fugitive; (5) upon the scope of inquiry on habeas corpus, etc. And on most of these subjects all the states have legislated, but in very variant form. Hence the need of a uniform act to supplant them all.

The Committee were confronted, however, with embarrassment in trying to make the Act applicable to the District of Columbia. In addition to the above federal statutes applicable to all the states, the Code for the District of Columbia provides as follows:

"Sec. 930. Extradition.—In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief justice of the supreme court of the District of Columbia shall cause to be apprehended and delivered up such fugitive from justice who shall be found within the District in the same manner and under the same regulations as the executive authorities of the several states are required to do by the provisions of sections fifty-two hundred and seventy-eight and fifty-two hundred and seventy-nine, title sixty-six, of the Revised Statutes of the United States, 'Extradition,' and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in such delivery.

"Sec. 931. Any associate justice of said court shall have like power, in case of the illness, absence, or other disability of the chief justice, or when any such application shall be certified to him by the chief justice."

It would seem quite possible to modify these sections slightly

so as to obligate the chief justice and the associate justices of the Supreme Court of the District of Columbia to recognize the action of the governors of the several states under the provisions of the Uniform Act, in demanding the rendition of criminals who have sought refuge in the District of Columbia. But there is considerable difficulty in providing in the Act a method for the rendition by the several states of persons charged with having committed crime in the District. At present criminals who have fled from the District after committing crime there are brought back from anywhere in the United States without the aid of the state executive machinery, on the theory simply that they have committed crimes against the United States. Their arrest and return is accomplished under section 1014 of the Revised Statutes of the United States (Sec. 33 of the Judiciary Act of 1789) taken with the Act of Congress of June 22, 1874 (1 Supp. Revised Stat. 38) which provides that "the provisions of the 33rd section of the judiciary act shall apply to courts created by Act of Congress in the District of Columbia."

It is true that there appears to have been still some doubt about the effect of this statute (see Scott on Rendition, Ch. IV); but the clarification of it involves questions more far reaching than mere uniformity between the federal and state law on the subject. So your Committee decided that the peculiar problem had best be left to Congress to solve if our uniform act is ever brought to its attention; and so we present an act which does not change the law with respect to the District of Columbia.

Three of your committee, the undersigned, have responded to correspondence concerning the draft of the Act herewith submitted, and the same three were in conference in Chicago in February. This report is submitted, therefore, as the judgment of these three members. Mr. Bradner W. Lee, a fourth member of the Committee who had charge of the second tentative draft of the Act, died, we are grieved to learn, on April 28, 1925, and it was no doubt his last illness which prevented his conferring with us on this draft.

Respectfully,

HENRY U. SIMS, *Chairman*

FRANK M. CLEVINGER

CHARLES V. IMLAY

Ex officio, NATHAN W. MACCHESNEY

THIRD TENTATIVE DRAFT OF AN ACT RELATING TO
THE EXTRADITION OF PERSONS CHARGED WITH
CRIME, AND TO MAKE UNIFORM THE LAW
WITH REFERENCE THERETO

Be it enacted.

1 SECTION 1. *Definitions.* Where appearing in this Act, the
2 term "Governor" includes the Lieutenant-Governor when
3 acting as Governor, and any person performing the functions
4 of Governor by authority of the law of this state. The term
5 "Executive Authority" includes the governor, the lieutenant-
6 governor when acting as governor, and any person performing
7 the functions of governor in a state other than this state.
8 And the term "state," referring to a state other than this
9 state, includes territory, territorial and insular possessions of
10 the United States of America.

1 SECTION 2. *Criminals to be delivered upon requisition.* Sub-
2 ject to the qualifications of this act, and the provisions of the
3 Constitution of the United States controlling, and Acts of
4 Congress in pursuance thereof, it is the duty of the Governor
5 of this state to have arrested and delivered up to the executive
6 authority of any other state of the United States any person
7 charged in that state with treason, felony, or other crime,
8 who has fled from justice and is found in this state.

N. B. The Statutes on Interstate Rendition are practically identical in
Alabama, Arizona, California, Idaho, Montana, Nevada, New Mexico,
North Dakota, Oklahoma, South Dakota, and Utah and also in the Terri-
tory of Alaska and Porto Rico.

1 SECTION 3. *Demand must be in writing and accompanied*
2 *by copy of indictment or affidavit.* No demand for the extradi-
3 tion of a person charged with crime in another state shall be
4 recognized by the Governor unless in writing and accompanied
5 by a copy of an indictment found in the state having juris-
6 diction of the crime or an affidavit made before a magistrate
7 there, together with a copy of any warrant which was issued
8 thereon substantially charging the fugitive with having
9 committed a crime under the law of that state; and the copy
10 must be authenticated by the executive authority making

11 the demand, or by the chief magistrate of that state, which
12 shall be prima facie evidence of its truth.

(Drafted from Act of Congress of 1793, and decisions in Davis case, 122 Mass. 324, and Pearce v. Texas, 155 U. S. 387, cf. Scott on Interstate Rendition, paragraph 91. The certification is provided by U. S. R. S. 5278. The effect of the certification is explained in Kentucky v. Dennison, 24 How. 66.)

1 SECTION 4. *Governor may investigate case.* When a demand
2 shall be made upon the Governor of this state by the executive
3 authority of another state for the surrender of a person so
4 charged with crime, the Governor may call upon the attorney
5 general or any prosecuting officer in this state to investigate
6 or assist in investigating the demand, and to report to him
7 the situation and circumstances of the person so demanded,
8 and whether he ought to be surrendered.

(Taken from Connecticut Statutes, Sec. 1566.)

1 SECTION 5. *What papers must show.* A warrant of extradi-
2 tion must not be issued unless the documents presented by
3 the executive authority making the demand show that the
4 accused was present in the demanding state at the time of
5 the commission of the alleged crime, and that he thereafter
6 fled from that state, and is now in this state, and that he is
7 lawfully charged by indictment found or by affidavit made
8 before a magistrate in that state with having committed a
9 crime under the laws of that state.

(Drafted from Hyatt v. People, ex rel Corkran, 188 U. S. 691; quoted in Scott on Interstate Rendition, Sec. 96, and Innes v. Tobin, 240 U. S. 127.)

1 SECTION 6. *Issue of Governor's warrant of arrest; its Re-*
2 *citals.* If the Governor shall decide that the demand should
3 be complied with, he shall sign a warrant of arrest, which shall
4 be sealed with the State Seal, directed to a sheriff, marshal,
5 coroner, or other person whom he may think fit to entrust
6 with the execution thereof; and the warrant must substantially
7 recite the facts necessary to the validity of its issue.

(Hyatt v. People, 188 U. S. 691; Jourdan v. Donahue, 84 N. Y. 438; Arnold v. Justice, 84 Minn. 237.)

1 SECTION 7. *Executed where and how.* Such warrant shall
2 authorize the officer or other person to whom it is directed

3 to arrest the fugitive at any place where he may be found
4 within the state and to command the aid of all sheriffs and
5 other peace officers in the execution of the warrant, and to
6 deliver the fugitive, subject to the provisions of this act, to
7 the duly authorized agent of the demanding state.

1 SECTION 8. *Authority of arresting officer.* Every such officer
2 or other person empowered to make the arrest, shall have the
3 same authority in arresting the fugitive, to command assistance
4 therein, as sheriffs and other officers have by law in the
5 execution of any criminal process directed to them, with the
6 like penalties against those who refuse their assistance.

1 SECTION 9. *Fugitive may apply for writ of habeas corpus.*
2 No person arrested upon such warrant shall be delivered over
3 to the agent whom the executive demanding him shall have
4 appointed to receive him unless he has been informed of the
5 demand made for his surrender and of the crime with which
6 he is charged, and that he has the right to demand legal
7 counsel; and if the prisoner, his friends, or counsel shall state
8 that he or they desire to test the legality of the arrest, the prison-
9 er shall be taken forthwith before a judge of a court of record
10 in this state, who shall fix a reasonable time to be allowed him
11 within which to apply for a writ of habeas corpus. And
12 when such writ is applied for notice thereof, and of the time
13 and place of hearing thereon, shall be given to the public
14 prosecuting officer of the county in which the arrest is made
15 and in which the accused is in custody, and to the said agent
16 of the demanding state.

(The present law of Mass., Conn., Delaware and Minnesota allows merely an "opportunity" to the accused to demand an investigation. New York and some other states prescribe a definite time. For a uniform act, an indefinite time to be made certain by a judge before whom the accused shall be brought, would seem the plan most likely to satisfy all the states. This is the law in Oklahoma.)

1 SECTION 10. *Penalty for non-compliance with preceding*
2 *section.* Any officer who shall deliver to the agent for extra-
3 dition of the demanding state a person in his custody under
4 the Governor's warrant in disobedience to the last section
5 shall be guilty of a misdemeanor, and on conviction shall be

6 fined [not more than \$1,000, or be imprisoned not more than
7 six months, or both].

Conn. Gen. Statutes, Sec. 1568 modified, and Oklahoma.

1 SECTION 11. *Confinement in Jail when necessary.* The
2 officer or person executing the Governor's warrant of arrest,
3 or the agent of the demanding state to whom the fugitive
4 may have been delivered, may when necessary confine the
5 prisoner in the jail of any county or city through which he
6 may pass; and the keeper of such jail must receive and safely
7 keep the prisoner until the person having charge of him is
8 ready to proceed on his route, such person being chargeable
9 with the expense of keeping.

1 SECTION 12. *Arrest prior to requisition.* Whenever any
2 person within this state shall be charged on the oath of any
3 credible person before any judge or other magistrate of this
4 state, with the commission of any crime in any other state of
5 the United States, and with having fled from justice; or
6 whenever complaint shall have been made before any judge
7 or other magistrate in this state setting forth on the affidavit
8 of any credible person in another state that a crime has been
9 committed in such other state of the United States, and that
10 the accused has been charged in such state with the commission
11 of the crime, and has fled therefrom and is believed to have
12 been found in this state, the judge or magistrate shall issue
13 a warrant directed to the sheriff of the county in which the
14 oath or complaint is filed directing him to apprehend the
15 person charged, wherever he may be found in this state, and
16 bring him before the same or any other judge, court or magis-
17 trate who may be convenient of access to the place where the
18 arrest may be made, to answer the charge or complaint; and
19 a certified copy of the sworn charge or complaint and affidavit
20 upon which the warrant is issued shall be attached to the
21 warrant.

(Arkansas Statute, Sec. 3674, is almost the same as the law of Colorado, Illinois and Kansas. This section is combined, however, with the law of Indiana, Sec. 1900, modified.)

1 SECTION 13. *Arrest of fugitive without a warrant.* The
2 arrest of a fugitive may be lawfully made also by an officer

3 or a private citizen without a warrant upon probable or
4 reasonable information that the accused stands charged with
5 a felony in the courts of the state from which he is alleged
6 to have fled; but when so arrested the fugitive must be
7 taken before a judge or magistrate with all practicable speed
8 and complaint must be made against him under oath setting
9 forth the ground for the arrest as in the last section; and
10 thereafter his answer shall be heard as if he had been arrested
11 on a warrant.

(Scott on Interstate Rendition, paragraphs 105, 107, citing in re Fetter,
3 Zabriskie, 311, and Dows case, 18 Pa. St. 37.)

1 SECTION 14. *Commitment to await requisition: Bail.* If
2 from the examination it appears that the person held is the
3 person charged with having committed the crime alleged
4 and that he probably committed the crime and that he has
5 fled from justice, the judge or magistrate must commit him
6 to jail by a warrant reciting the accusation for such a time
7 specified in the warrant as will enable the arrest of the fugitive
8 to be made under a warrant of the Governor on a requisition
9 of the executive authority of the state having jurisdiction of
10 the offense, unless he give bail as provided in the next section,
11 or until he shall be legally discharged.

(Ala. Code of 1923, Sec. 4168 restricted.)

1 SECTION 15. *Bail except in capital cases; condition and*
2 *requisites of bond.* Unless the offense with which the fugitive
3 is charged is shown to be an offense punished capitally by
4 the laws of the state in which it was committed, the magistrate
5 must admit the person arrested to bail by bond or undertaking,
6 with sufficient sureties, and in such sum as he deems proper,
7 for his appearance before him at a time specified in such
8 bond or undertaking, and for his surrender, to be arrested
9 upon the warrant of the Governor of this state.

(Alabama Code of 1923, Section 4169 modified.)

1 SECTION 16. *When discharged from custody.* If such person
2 is not arrested under the warrant of the Governor, before the
3 expiration of the time specified in the warrant, bond, or
4 undertaking, he must be discharged from custody on bail.

(Ala. Code of 1923, Sec. 4170.)

1 SECTION 17. *Forfeiture of bail.* If the fugitive is admitted
2 to bail, and fails to appear and surrender himself according
3 to the condition of his bond, the court, by proper order, shall
4 declare the bond forfeited; and recovery may be had thereon
5 in the name of the state as in the case of other bonds or under-
6 takings given by the accused in criminal proceedings within
7 this state.

1 SECTION 18. *At the expiration of time.* At the expiration of
2 the time specified in the warrant, the magistrate may dis-
3 charge or recommit him to a further day or may take bail
4 for his appearance and surrender, as provided in Section 14;
5 and on his appearance, or if he has been bailed and appeared
6 according to the terms of his bond or undertaking, the
7 magistrate may either discharge him therefor, or may require
8 him to enter into a new bond or undertaking to appear and
9 surrender himself at another day.

(Ala. Code of 1923, Sec. 4173.)

1 SECTION 19. *If a prosecution has already been instituted in*
2 *this state.* If a criminal prosecution has been instituted against
3 such person under the laws of this state and is still pending,
4 the Governor at his discretion either may surrender such person
5 on the demand of the executive of another state, or may hold
6 him until he has been tried and discharged, or convicted and
7 punished in this state.

(Ala. Code of 1923, Sec. 4174, changed.)

1 SECTION 20. *Guilt or innocence of accused, when inquired*
2 *into.* The guilt or innocence of the accused as to the crime of
3 which he is charged may not be inquired into by the Governor
4 or in any proceeding after the demand for extradition ac-
5 companied by a charge of crime in legal form as above pro-
6 vided shall have been presented to the Governor, except as it
7 may be involved in identifying the person held as the person
8 charged with the crime.

(Scott on Interstate Rendition, Chapter XVIII.)

1 SECTION 21. *Governor may recall warrant or issue alias.*
2 The Governor may recall his warrant of arrest, or may issue
3 another warrant whenever he deems proper.

1 SECTION 22. *Fugitives from this state.* Whenever the
2 Governor of this state shall demand a fugitive from justice
3 from the chief executive of any other state, territory or insular
4 possession of the United States, or from the Chief Justice or
5 an associate justice of the Supreme Court of the District of
6 Columbia authorized to receive such demand under the laws
7 of the United States, he shall issue a warrant under the seal
8 of this State, to some agent, commanding him to receive said
9 fugitive if delivered to him and convey him to the proper
10 officer of the county in this state in which the offense was
11 committed.

(Illinois Law, Sec. 8, modified.)

1 SECTION 23. *Manner of applying for requisition.* When
2 the return to this state of an alleged fugitive from justice is
3 required, the prosecuting attorney of the county in which the
4 offense is committed shall present to the Governor his written
5 application for a requisition for the return of the fugitive, in
6 which application shall be stated the name of the fugitive,
7 the crime charged against him, and the approximate time,
8 place and circumstances of its committal, the state to which
9 the fugitive has fled, including the location of the fugitive
10 therein at the time the application is made, and certifying
11 that in the opinion of the said prosecuting attorney the ends
12 of justice require the arrest and return of the fugitive to this
13 state for trial, and that the proceeding is not instituted to
14 enforce a private claim. The application shall be verified by
15 affidavit, and shall be accompanied by three certified copies
16 of the indictment returned, or complaint made to the magis-
17 trate, stating the offense with which the fugitive is charged.
18 The prosecuting officer may also attach such further affidavits
19 and other documents as he shall deem proper to be submitted
20 with such application. The application, with the action of
21 the Governor indicated by endorsement thereon, and one of
22 the certified copies of the indictment or complaint, shall be
23 filed in the office of the [secretary of state] to remain of record
24 in that office. The other two certified copies shall be forwarded
25 with the Governor's requisition.

1 SECTION 24. *Costs and expenses.* [When the punishment
2 of the crime shall be the confinement of the criminal in the
3 penitentiary, the expenses shall be paid out of the state
4 treasury, on the certificate of the Governor and warrant of
5 the Auditor; and in all other cases they shall be paid out of
6 the county treasury in the county wherein the crime is alleged
7 to have been committed. The expenses shall be the fees paid
8 to the officers of the state on whose Governor the requisition
9 is made, and not exceeding.....cents a mile for all
10 necessary travel in returning such fugitive.]

(Illinois Law, Section 11.)

1 SECTION 25. *Exemption from civil process.* A person
2 brought into this state on extradition based on a criminal
3 charge shall not be subject to service of personal process in
4 civil actions, arising out of the same facts as the criminal
5 proceeding to answer which he is returned, until he shall
6 have had ample opportunity to return to the state from
7 which he was extradited.

(Scott on Interstate Rendition, Sec. 136.)

1 SECTION 26. *No right of asylum.* After a fugitive has been
2 brought back to this state upon extradition proceedings, he
3 may be tried in this state for other offenses which he may be
4 charged with having committed here, as well as that specified
5 in the requisition for his extradition.

(Lascelles v. Georgia, 148 U. S. 543.)

1 SECTION 27. *Interpretation.* This act shall be so interpreted
2 and construed as to effectuate its general purpose to make
3 uniform the law of those states which enact it.

1 SECTION 28. *Repeal.* All acts or parts of acts and adminis-
2 trative rules inconsistent with this act are hereby repealed.

1 SECTION 29. This Act shall take effect on the.....
2 day of....., 19.....

1 SECTION 30. This Act may be cited as the Uniform Inter-
2 state Rendition Act.

AMENDMENTS

TO THE

UNIFORM ACT FOR THE EXTRADITION OF PERSONS CHARGED WITH CRIME, APPROVED AT DETROIT, AUGUST, 1925

1. *Amend Section 6* by inserting in line 4, on p. 9, immediately after the words "Great Seal," the words "and be" so that said line 4, on p. 9 shall read, "be sealed with the Great Seal and be directed to a sheriff, marshal," etc.

2. Amend Section 16 by striking out all of line 4, p. 12, after the word "undertaking," and combining with section 18 slightly amended, so that sections 16 and 18, when changed and combined, shall read as follows:

"Section 16: If no arrest made on Governor's warrant before the time specified. If such person is not arrested under the warrant of the Governor by the expiration of the time specified in the warrant, bond, or undertaking, the magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in Section 15; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day."

3. Amend succeeding sections, beginning with Section 19, so that 19 shall read as 18, and so on consecutively to the end of the Act.

4. Amend Section 22 (new number) by inserting in line 15, on page 13, just after the words "shall be," the words "executed in duplicate and shall be."

Also change the word "three" in the same line to "two."

Also add at the end of line 18, on p. 14, in the same section, the words "in duplicate," and in line 20 insert at the beginning of the sentence in that line the words "one copy of."

Also in line 24, in the same section, strike out the words "two certified" and insert after the word "copies" the words "of all papers," so that the last sentence in the section shall read "The other two copies of all papers shall be forwarded with the Governor's requisition."

REPORT OF COMMITTEE ON AERONAUTICS

To the National Conference of Commissioners on Uniform State Laws:

This Committee was appointed at the 1924 Annual Conference for the purpose of considering and reporting upon certain objections to the Uniform State Law for Aeronautics which have been framed by the Committee on the Amendment of the Law of the Association of the Bar of the City of New York.

The Uniform State Law for Aeronautics was first presented to the New York State Legislature at the session of 1923. The Committee of the Association of the Bar above referred to, consisting of nine members, made a report upon this act, which is found at pages 361-376 of Bulletin 11 of the Association of the Bar. This was published in the early part of the year 1923.

The report of this Committee first outlines the provisions of the Uniform Act and then raises five objections to the bill, which are as follows:

(1) Section 3, declaring the sovereignty in the space above the lands and waters of this state to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state, is not desirable, because it is possible that the space may be treated like the high seas and be subject to the sovereignty of no state or nation.

(2) Even if a declaration of sovereignty is desirable, it may be desirable to declare the sole sovereignty to be vested in the federal government, and no sovereignty in the state governments.

(3) Section 4, which declares that ownership of the space above the lands and waters of this state is vested in the several owners of the surface beneath subject to a right of flight, is undesirable because such a section might handicap the use of space for radio and similar purposes, and because some authorities have expressed doubt as to the private ownership of the space.

(4) Section 6, which imposes absolute liability for injuries occasioned by aircraft, is undesirable because it may handicap the development of aviation and in the case of the unauthorized user of aircraft, might impose unjust liability.

(5) It is undesirable that there should be any state legislation

on aeronautics, because the subject is in a stage of development where the principles properly applicable are not yet fixed.

The objections mentioned above were presented to the New York State Legislature in 1923. Whether because of these objections or not, the legislature did not enact this bill into law in 1923.

In 1924 the Uniform State Law for Aeronautics was again presented to the New York State Legislature. The Committee on Amendment of the Law of the Association of the Bar of the City of New York again presented a report adverse to this bill, the reasons given being substantially identical with those presented in 1923. The draftsman of the Act, Mr. Bogert, was offered an opportunity of discussing the bill with the Committee. He presented arguments opposed to the report of the Committee but the Committee adhered to its previous position. This report was again presented to the members of the New York State Legislature. The bill did not pass in 1924.

Charles A. Boston, Esq., of New York City, the first Chairman of the American Bar Association Committee on the law of Aeronautics, has joined heartily in the objection of the Committee on the Amendment of the Law to the Uniform State Law for Aeronautics in so far as the criticism is concerned with Section 4,—the section which declares private ownership in the space above lands and waters, subject to the right of flight. In a letter to the President and Secretary of the Conference dated February 29, 1924, Mr. Boston said:

“It appears to me that the criticism of Section 4 of the Uniform Aviation Act discloses a grave defect which ought to be corrected by the Commissioners before any further harm is done by its enactment. I understand from the Committee’s criticism that the result which this Section now accomplishes was no part of the design of the Commissioners, their only design being very properly to save the right of flight, but apparently the effect is to make a universal legislative grant which will impede other proper uses of the upper air. It seems to me that no State ought to be suffered to fall into this trap before the Commissioners have modified this Section. It appears to be the opinion of the Committee of the

Association of the Bar of the City of New York that both* of these Uniform Acts are calculated to do more harm than good, and as I am Chairman of the Committee on Uniform State Laws of the New York State Bar Association, I should like to have some statement to incorporate in our next annual report, which will indicate how, if at all, the Commissioners think these criticisms can properly be met, so that the New York State Legislature may be advised of such reasons, if any, which ought to induce it to pass these uniform laws, notwithstanding the arraignment of them as unwise and undesirable which is embodied in the Bulletin of the Committee of the Association of the Bar of the City of New York. I confess that it appears to me that the criticisms of the latter Committee are well founded, and that the State Legislature ought not to be rushed into the adoption of these uniform laws, if they are fraught with the dangers which the Committee indicates."

"The New York State Bar Association approved each of these laws on the recommendation of the Committee, of which I am now Chairman, but before I was a member of it, and hence during my incumbency as its chairman, I have had no occasion to consider whether and to what extent these uniform laws are objectionable from the standpoint of the people of New York. Anything which you can send me by way of rejoinder to the Committee's criticism will be gratefully received, and I should like to have it for the consideration of the Committee, of which I am now Chairman."

With respect to the first criticism by the Committee of the Association of the Bar, namely, the objection to the provision which declares the sovereignty in the space to be in the state and the United States, it may be said that the freedom of the seas theory with respect to space over states has been abandoned by all students of the subject for many years, and has never received any practical recognition by any sovereign state. The International Air Navigation Convention of 1919 is expressly founded on the theory of state sovereignty over the space above the state. All the state laws with respect to aeronautics have been framed on the same theory. The Uniform State Act is, therefore, merely recognizing a principle which is absolutely undisputed and which

*The other act referred to is the Uniform Fiduciary Act.

has been recognized in international conventions and various municipal laws all over the world.

In so far as the criticism by the Committee concerns a division of this sovereignty between the several states and the United States, the criticism seems groundless. The Uniform State Act merely declares that the sovereignty rests in the state, except where constitutionally granted to the United States. It is believed that it is elementary constitutional law that the United States government is one of delegated powers and that it has no sovereignty over territory or space except as such sovereignty has been granted to it by the people of the several states. The act does not attempt to say how much sovereignty is in the state and how much in the United States, but merely declares that the total sovereignty rests in the two political entities.

The third criticism of the Association of the Bar is the one upon which most emphasis has been laid by the Committee and by Mr. Boston. It is the criticism that it is undesirable in the state law to declare space ownership to be in the private owners of the surface, subject to a right of flight.

This section was not in the original draft of the Uniform State Law for Aeronautics which was presented at Cincinnati in August, 1921. At that Annual Conference the question of space ownership was brought up by Mr. Willis, and discussed by him, by General MacChesney, Mr. Hinkley, Mr. Bronson, Mr. Shepard and the draftsman of the Act, Mr. Bogert. The Conference voted to insert a section declaring private ownership in the space above the lands and waters of any given state, subject to a right of flight. The discussion is found at pages 501-520 of the typewritten proceedings of the 31st Annual Conference.

The subject of private ownership of space was discussed by Mr. Boston in his report as Chairman of the American Bar Association Committee on the Law of Aviation, submitted in August, 1921. (pages 498-530, A. B. A. Report for 1921.) At pages 511-512 Mr. Boston discusses the maxim *cujus est solum* and concludes that it must be limited by the right of flight just as in the case of roads where there is a right to go outside the road on private property when the road becomes impassable. On page 512 Mr. Boston said:

"We suggest that in this principle, if further investigated, lies perhaps, the existing and recognized, but little utilized ground, upon which the private right may be limited without violence to the existing law of private property."

At later points in the report Mr. Boston discusses the Air Service Information Circular issued by Major Elza C. Johnson in which that gentleman urges a constitutional amendment releasing the private ownership of space to the United States, in order that condemnation proceedings with respect to such space should not be necessary. Mr. Boston seems clearly to admit private ownership of the space and directs his arguments to proving that there is clearly a right of flight without trespass, that is, that the private ownership is subject to a public easement of flight.

The Uniform State Law for Aeronautics was revised in the winter of 1921-1922, so as to include a paragraph declaring private ownership in space subject to the right of flight. This draft was presented to a Conference of practical aeronauts, business men interested in aeronautics, army and navy officers, and lawyers familiar with the legal aspects of the subject, the Conference being held February 25, 1922, at Washington, D. C. Although about thirty gentlemen spoke at this Conference, giving their views about federal and state legislation, no one questioned the desirability of the section in the state bill which is now under discussion.

The Uniform State Law for Aeronautics was presented to the Annual Conference held at San Francisco in August, 1922, and approved, with Section 4 included.

Since that date the act has been approved by the American Bar Association, the New York State Bar Association, and has been enacted into law in the following states: Delaware, Hawaii, Idaho, Michigan, Nevada, North Dakota, South Dakota, Tennessee, Utah, and Vermont. In no case has any serious criticism of the Act come to the attention of the Chairman of the Committee, who was the draftsman of the Act. No Bar Association except that of the City of New York and no other organization known to the Committee has criticized the Act on account of Section 4.

For several years past there has been before Congress a proposed

federal law controlling aeronautics known as the Winslow bill. This bill is based on the theory of private ownership of space, subject to an easement of flight. Under it all flight, intrastate or interstate, is to be controlled by the federal government under the interstate commerce clause of the United States Constitution.

The Committee of the Association of the Bar fears that the enactment of section 4 by the various states may handicap full use of the air space by the radio and other similar inventions. In answer to this it may be replied that the federal government has already assumed full control of air space throughout the entire country in so far as is necessary for the protection of radio communication. It seems grotesque to assert that the federal government is going to be handicapped in its control of the radio or similar devices by state laws regarding space ownership. There can be no question that in the case of means of communication later developed, as in the past in the case of the radio, the telegraph, and the telephone, the United States Government will assert control under the interstate commerce clause and will declare all easements in space necessary to allow freedom of such communication. The analogy to the easement of navigation in the case of navigable water over privately owned land is very close. It is, of course, elementary that the land owner cannot interfere with navigation on the water over his land. This is a common law easement. It exists not because of any legislation but because the courts declared that it existed. It was not necessary to pay any compensation to the land owner in order to create this common law easement of navigation over private land. In the same way undoubtedly it will never be necessary to pay any compensation to the private land owner for the easement of flight, radio communication, or other communication which may be declared by the courts as inventions develop.

Attention may be called to a canon of construction of statutes, which is universally recognized, and which would clearly prevent Section 4 of the Uniform Act from handicapping the public in the use of space over privately owned land. This canon is that where a statute is confined to a particular subject and is not general in its nature, a declaration in it of a right subject to one limitation, will not exclude other limitations which are not germane to the

subject of the legislation. Applying that principle to the case of Section 4, it may with entire fairness be assumed that the declaration in Section 4, of private ownership of space subject to the easement of flight does not exclude the existence of easements for radio communication and other purposes of communication. The bill has to do with aeronautics only. It is not attempting to settle all questions with respect to the subject of ownership and use of space.

The fourth objection of the Committee of the Association of the Bar is to the paragraph creating absolute liability for injuries caused by aircraft. This section was thoroughly debated in two sessions of the Conference and was approved because it was felt it was impossible for one whose property or person was injured by aircraft to prove negligence on the part of the owner or operator of the aircraft. There was excellent authority for the section in the British Air Navigation Act of 1920. This principle of liability without fault in the case of dangerous vehicles is being increasingly applied. In 1924 the New York legislature applied it to the automobile, and this action had been taken in other states previously. This legislation has been declared constitutional in New York.

The last objection of the Committee of the Association of the Bar is that the time is not ripe for state legislation on aeronautics.

We are unable to agree with this objection. The Conference in approving the formulation of a state act expressly went on record as approving the principle that state legislation was desirable, and that discussion had advanced sufficiently far to enable a satisfactory state act to be framed. That such Uniform State Laws are desirable seems to be proved by the fact that ten states have adopted the Uniform Act and that prior to the Uniform Act many states had enacted laws which partially covered the subject of aeronautics and disposed of its problems in a great variety of ways.

The practical experts and lawyers have agreed upon a federal bill which all concerned admit will soon be passed by the federal legislature. The Winslow Act is a thoroughly developed and perfected piece of legislation. It is in harmony with the Uniform State Law. With the Winslow bill enacted and the Uniform

State Law generally adopted, we would have an harmonious and satisfactory code of laws regarding aeronautics.

The objections of the Committee of the Association of the Bar, if they lead to any action by the Conference, must lead either to an abandonment of the Uniform State Law for Aeronautics or to its amendment.

As to abandonment, your Committee feels that there can be no possible argument. This Act has been approved by the Conference and adopted by ten states after years of deliberation and discussion, participated in by manufacturers of aircraft, aeronauts, and lawyers. Your Committee has no disposition to recommend the withdrawal of this Act from those approved by the Conference. Nor does your Committee believe that the criticisms of the Committee of the Association of the Bar are so serious as to require the extraordinary action of amendment. The change of Uniform Acts after they have been approved and adopted by one or more states is extraordinary and only justified by a clear case of mistake or changed conditions. There has been no mistake in any of the sections criticized by the Committee. The Conference thoroughly discussed these sections in advance of their approval and approved them, knowing what they meant. Nor has there been any change in conditions. The arguments brought forth by the Committee of the Association of the Bar are arguments which were considered before the adoption of the Uniform Act. They were weighed and found to be more than counter-balanced by arguments in favor of the Sections criticized.

Your Committee, therefore, recommends that the Conference again approve the Uniform State Law for Aeronautics in the light of the criticism made by the Association of the Bar of the city of New York and that a copy of this report, with a note of the action of the Conference, be sent to the Association of the Bar of the City of New York and to Charles A. Boston, Esq.

JOHN HINKLEY

CHARLES V. IMLAY

FRANK PACE

HAZEN I. SAWYER

A. T. STOVALL

GEORGE B. YOUNG

GEORGE G. BOGERT, *Chairman*

Ex-officio: NATHAN WILLIAM MACCHESNEY, *President*

REPORT

of the

COMMITTEE ON A UNIFORM PUBLIC SERVICE ACT

To the National Conference of Commissioners on Uniform State Laws:

Your committee herewith presents its first report with a first tentative draft of a Uniform Public Service Act. The committee realizes that its product is not perfect and feels that there are many matters of detail and some matters of dispute which must be disposed of before the act can be recommended for final adoption. Yet, believing that greater progress can be made after a thorough-going criticism of the proposed draft in the conference of commissioners, it is submitting this report in the hope that the criticism will be forthcoming. While the underlying principles of regulation of public utilities are somewhat the same in the several states, yet there is a considerable diversity of detail in regard to many matters of importance. The familiarity of the several commissioners with the success or failure of specific sections of their own statutes will permit them to throw much light upon the proper course to be followed in drafting those sections of the Uniform Act.

The various state statutes and the cases decided thereunder have, of course, been the primary source of information. Yet, because of the limitation of time just referred to, it would have been difficult to accomplish the progress actually achieved without the aid of certain secondary sources, which have been available for reference. First among these is the work of a special committee of the National Association of Railway and Utility Commissioners which has had the matter of uniformity under consideration. This committee has made a study of the regulatory acts throughout the United States and has published a "Comparative Survey of Railroad and Public Utility Laws," 1923. It is a compilation of the provisions of the laws of the various states on the more important features of commission regulation, and is a most valuable source of

information. Mention should also be made of the tentative proposed "Uniform Public Service Act" prepared by a special committee of the section of Public Utility Law of the American Bar Association. This act has been a valuable guide to the committee and liberal use has been made of it. We wish to acknowledge our indebtedness to these sources for the help they have rendered.

I. Present Diversity of Public Utility Laws.

The present utility laws are, for the most part, drafted in the light of the earlier enactments of certain state legislatures, notably the acts of Wisconsin and New York, and these in turn were much influenced by the Interstate Commerce Act. As a result there is naturally considerable uniformity of principle with reference to regulation, and there is even some uniformity with reference to the specific details of the various laws.

Yet even a casual examination of the laws of the several states indicates that there is much yet to be done along the line of securing uniformity of legislation, not only in the matter of statutory phraseology and mechanical detail, but also in connection with the underlying principles which govern the relations between the state and the public service company.

The notes following the several sections of the tentative draft herewith submitted indicate, in part at least, the particulars in which uniformity is lacking. For instance in several of the states the commissions, in fixing rates, are limited to the establishment of maximum rather than absolute rates. Again, there is a considerable diversity of statutory provision with respect to the specific public services that come within the scope of commission control. Then too, there is some diversity in regard to the regulatory powers to be exercised by the commissions over such utilities as are subjected to control. For example, in about one-half of the states, no power is given the commissions to regulate the issuing of stocks, bonds and other securities, and there are substantial variations in the regulatory powers on this subject in the other state laws. The important matter of valuation is treated differently in different states and, although the question of valuation involves a principle which lies at the very heart of the problem of utility regulation,

the majority of the state laws on the subject are indefinite, and quite useless as constructive guides for their respective commissions. The almost equally important matter of the conclusiveness of the findings of the commissions on questions of fact presented to them for decision is in the same uncertain and unsatisfactory condition. These instances of non-uniformity, along with many others of minor but by no means negligible importance, indicate the need for a Uniform Act which will embody the best practice as revealed by nearly twenty years of experience with state utility commissions.

II. *The Value to the States of a Uniform Public Service Act.*

It can hardly be doubted that a Uniform Act would be a substantial aid to state legislatures in remodeling existing laws or in altering or extending the field of commission regulation. Then too a Uniform Act which will advance the cause of uniformity of regulatory provisions will amply justify itself economically. Our larger utilities are no longer merely local plants. They probably cross at least one state line and possibly two or more. Uniformity of regulation in the several states served by any one utility will inevitably be reflected in decreased operating costs, improved service, and probably either increased dividends for the stockholders or decreased charges for the consumers or both.

Furthermore state regulation of the public services has become an established institution which is destined to develop in scope and importance during the next several decades. The development will inevitably follow the present gradual increase in the number and extent of public utilities, and the growing importance of their position in our economic and social structure. The state regulatory acts have now been in existence for a sufficient length of time for there to be a considerable volume of court decisions construing them. The public is awakening to the principles which must govern regulation. The subject is developing a literature of its own. But, in its present aspect at least, the matter of commission control of utilities is still sufficiently new so that it has not yet acquired the rigidity of form and substance which is characteristic of the more ancient portions of our law. As a result of these facts, the codification of the principles and the machinery of

commission regulation, presenting in a simple and concise Uniform Act that which represents the best of experience to date, will be unusually timely, helpful to future development in the field, and a markedly progressive step in the general matter of uniform legislation.

III. *The Tentative Uniform Public Service Act.*

In the tentative draft of a Uniform Act herewith submitted the language of existing statutes has frequently been used. In all cases where a clear and concise statement of a particular feature could be found which seemed correct in principle, that statement has been adopted. The New York, Wisconsin and California laws have, for instance, been satisfactory sources on which to draw. The two former laws, adopted in 1907, were the first of the general utility acts. The California law was adopted in 1911, and most of its provisions were taken or adapted from previously existing statutes. The California law has subsequently been copied almost verbatim in Arizona and has been followed rather closely in Idaho, Illinois, Colorado and Utah. As will be observed from the notes following the sections of the proposed act, several of the sections are taken either literally or in substance from the corresponding sections of the laws of New York, Wisconsin or California. Our excuse for using these laws in this literal fashion is simply that, when it has been found that a particular detail or principle has been well worked out, it is both unnecessary and unwise to attempt to improve upon it. Such an attempt might easily undo a task already well done.

Furthermore many of the sections thus adopted from the several statutes have been interpreted by the courts and these interpretations are known and accepted. To attempt any considerable change would therefore undo much of the accomplishment of the decided cases concerning these sections.

It will be noticed that the proposed act contains practically none of those special regulations and restrictions which relate to specific utilities, of which a considerable number are to be found in all state statutes. For instance, the acts of the states contain many special provisions which concern only carriers, such as provisions for liability for property in transit, for distribution of cars, for

routing of shipments, long and short haul clauses, etc. No provision for these special matters has been made in this tentative draft, it being deemed advisable, for the sake of simplicity, to limit the treatment, in the beginning at least, to those phases of the subject of regulation which are common to all utilities.

Finally, a word should be said with reference to the notes following the several sections. The more important sections have been annotated in some detail. Others have been touched more casually or perhaps not at all. In general a rather complete reference is made to the corresponding provisions of the laws of California, New York and Wisconsin. These three acts embody most of the features of the regulatory laws of the country. Whenever a special feature of the laws of one of the other states differs in a material way from the provisions in the three states mentioned and also from the proposed act, special mention is made of the fact in the notes. In all cases where there has been doubt in the minds of the members of the committee concerning the correctness in principle or detail of a section in the proposed act, that doubt has been indicated in the notes, together with enough of the reasons, pro and con, to display the problem involved. In all cases where there is an important difference in principle or detail in the statutes of the several states an attempt has been made to name the states on each side of the question. Court decisions have been referred to when material.

IV. *An Analysis Showing the Scope of the Proposed Act.*

The following abstract of some of the principle features of the draft herewith submitted is included at this point for the reason that it will, perhaps, give a view of the act as a whole which will not be readily acquired from a study of individual sections. The features thus analyzed are those parts of the act dealing with the utilities included within its purview, the duties and restrictions imposed by the act upon the utilities, and the scope of the commission's power with reference to these utilities.

It should be observed that the primary purpose of the utility acts is to provide efficient working machinery for the enforcement of the presently existing rights and duties of the utilities and the

public. Yet the acts are not exclusively procedural. In fact they accomplish much of benefit by codifying, declaring, clarifying and even amplifying the common and statutory law dealing with substantive rights and duties.

(a) *The public utilities included within the Uniform Public Service Acts.* See Section 13.

1. Those producing, generating, transmitting, distributing, delivering, or furnishing, electricity, gas, or heat.

2. Those diverting, developing, pumping, impounding, distributing or furnishing water.

3. Carriers, except railroads and taxi-cab service in cities.

4. Those transporting or conveying gas, crude oil or fluid substance by pipe line for hire.

5. Telegraphs and telephones.

6. The above services whether privately or municipally owned.

Other public utility acts include the following additional public services: railroads, wharfingers, warehousemen, stock yards, corporations holding the majority of the stock of any utility or utilities, passenger terminals, union depots, storage elevators, packing and cold storage companies for the marketing, storage or handling of foods or other agricultural products, and "other public utilities."

(b) *Duties and restrictions imposed upon utilities coming within the act.*

1. All rates must be just and reasonable. Sec. 14.

2. Every utility shall furnish adequate, efficient and reasonable service. Sec. 15.

3. Every utility shall file a schedule of rates with the commission. Sec. 16.

4. No utility shall depart from the schedule so filed. Sec. 17.

5. No utility shall grant unreasonable preferences, or maintain unreasonable differences in rates between localities or classes of service. Sec. 18.

6. No change in rates shall be made except on 30 days notice to the commission. Sec. 19.

7. No new construction or extension of service, with certain exceptions, shall be entered upon without a certificate of convenience and necessity first being obtained from the commission. Sec. 29.

The various public utility acts contain many other provisions of minor relative importance. There are, however, a few matters of very considerable importance covered by some of the acts which are not treated in the proposed Uniform Act.

One of these is the fairly common provision that a public service company may issue stocks, bonds, notes and other evidences of indebtedness only for certain specified purposes and then only upon the order of the commission authorizing the same. Another is the provision that a utility may not sell its franchises or other property nor may it merge or consolidate with other utilities except upon the authorization of the commission. These two matters are of such substantial importance that a more complete discussion of them, with typical statutes, is presented in a later section of these introductory remarks.

(c) Powers conferred upon the commission by the Uniform Public Service Act.

1. To investigate new schedules and proposed changes in rates, and either to confirm proposed schedules or determine the reasonable rates to be charged. Sec. 19.

2. To determine and fix just and reasonable rates. Sec. 20.

3. To order inter-connection of telephone lines. Sec. 22.

4. To determine and fix reasonable, safe, adequate and sufficient service. Sec. 23.

5. To ascertain and fix reasonable standards, classifications, regulations, etc. Sec. 24.

6. To make valuations. Sec. 25.

7. To establish a system of accounts. Sec. 26.

8. To make examinations and tests on the utilities' premises. Sec. 27.

9. To require utilities to file annual and special reports. Sec. 28.

10. To issue or withhold certificates of convenience and necessity. Sec. 29.

11. To determine compensation due the utility if purchased by a municipality. Sec. 36.

12. To inspect books, records, documents, etc.

The following are the more important additional powers which are included in some of the state laws.

(a) The power to order reasonable alterations and improvements unless this be included under sections 15, 23 and 24.

(b) The power to authorize the abandonment of service.

(c) The power to authorize or prohibit the issue of securities.

(d) The power to authorize or prohibit a sale, lease, purchase, merger or re-organization.

The foregoing summarization should be of convenience to the conference in passing upon the vital question of the field to be covered by the proposed uniform bill.

V. *Stock and Bond Laws, and Laws Concerning Sale, Transfer, Merger, etc.*

As heretofore stated these subjects have not been treated in the tentative draft herewith submitted, yet they are matters of considerable importance and should be considered carefully in connection with uniform legislation. In twenty-three of the states having utility commissions there are provisions giving supervisory or regulatory jurisdiction of some nature to the commission in relation to stock and bond issues. In one of these states jurisdiction is confined to the securities of railroads and street railways. In about nine states jurisdiction is conferred over sale, merger and consolidation. There is considerable diversity between the several states in regard to all of these matters.

In several of the states the provisions relating to these subjects are found in separate acts from those establishing utility regulation in general. The laws are of fairly recent origin and experience with them to date has not been very extensive. These facts combined with the fact that the laws are complex both in substance and in detail, and the further fact that there is considerable diversity of opinion concerning them, make it questionable whether the subject should be treated in connection with this Uniform Act. In any event no attempt has been made to include these features in this first draft of the act.

The Conference should consider whether these matters should be treated in connection with the Uniform Public Service Act, or in connection with the Uniform Sale of Securities Act now under consideration, or left to some future date.

The following specific statutory provisions are quoted in full in order that the subject may come before the conference in tangible form.

(a) *Stock and bond laws.*

About one-half of the statutes contain no regulatory provisions concerning this matter. In the remainder of the states control of security issues is provided for with great care. The California law, Deering's G. L. 1923, Act 6386, Sec. 52. represents a fairly general practice. It is in part as follows:

"Power of public utilities to issue stocks. Procedure governing. Penalty for violation of statute. (a) The power of public utilities to issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe.

(b) *Purposes for which stocks may be issued. Order authorizing issue. Hearing.* A public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely, for the acquisition of property, or for the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, for any of the aforesaid purposes except maintenance of service and replacements, in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made;

Order authorizing issue, provided, that such public utility, in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied,

and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income."

The foregoing provision appears either literally or in substance in Arkansas, Arizona, Illinois, Indiana, Maine, Maryland, Missouri, New York, and Ohio, and with some variations in Michigan, Nebraska, Minnesota, Wisconsin, Massachusetts, New Hampshire, Georgia and Kansas. In New Jersey and Tennessee the commission may authorize the issuance of stocks, bonds or securities "for any corporate purpose" which may be approved by the commission.

The California law further provides:

"Hearing. To enable it to determine whether it will issue such order, the commission shall hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issue of such stock or stock certificates, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary. The commission may authorize issue of bonds, notes or other evidences of indebtedness, less than, equivalent to or greater than the authorized or subscribed capital stock of a public utility corporation, and the provisions of sections 309 and 456 of the Civil Code of this state, in so far as they contain inhibitions against the creation by corporations of indebtedness, evidenced by bonds, notes or otherwise, in excess of their total authorized or subscribed capital stock shall have no application to public utility corporations."

Similar provisions are found in the laws of Arkansas, Arizona, Georgia, Illinois, Indiana, Maine, Maryland, Michigan, Missouri, Nebraska, New York, Ohio, and Wisconsin.

And the California law further provides that,

"Notes. A public utility may issue notes, for proper purposes and not in violation of any provision of this act or any other act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the commission."

Similar provisions are found in the laws of Arizona, Georgia, Maryland, Minnesota, Missouri, Nebraska, New York, Ohio, Indiana and Michigan.

Other important provisions of the California Law which are found fairly generally in the other state laws are as follows:

"No power to capitalize right to be a corporation. The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or in the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public utility hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

(c) *Account of disposition of proceeds.* The commission shall have the power to require public utilities to account for the disposition of the proceeds of all sales of stocks and stock certificates, and bonds, notes and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

(d) *Stocks issued without order void.* All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock or stock certificate, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice."

The stock and bond laws can be roughly classified into three groups:

1. Those where notice to the commission is required, but no consent to the issuance of the securities is required. See laws of Pennsylvania.

2. Those where consent to the issue is required, but the penalty for not obtaining the consent is visited upon the utility only, the securities not being made void. See California law, above quoted.

3. Those where consent is required and the securities are void unless consent is obtained. See laws of New York.

There is not a unanimity of opinion concerning the effectiveness of such legislation. Theorizing is of but little value in connection with the problem. Experience and the results obtained in actual practice are the best criteria. The conference should consider the matter with some care in connection with the experience of the several commissioners with their own state laws.

(b) *Laws governing the sale, merger and reorganization of utilities.*

The reasons for placing the subject of control over sales, merger and reorganization of utilities in the hands of the utility commissions are substantially the same as those relating to the control of security issues.

Again the California General Laws will be quoted. Section 51 of the California Utility Act provides as follows:

"Selling, leasing, etc., of public utilities. (a) No railroad corporation, street railroad corporation, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation or water corporation shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant or system, necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate its railroad, street railroad, line, plant or system, or franchises or permits or any part thereof, with any other public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under section 50 of this act, or the sale, lease, assignment, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease or other disposition by any public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value.

(b) *Acquirement of stock of one public utility by another.* No public utility shall hereafter purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under or by virtue of the laws of this state, without having been first authorized to do so by the commission. Every assignment, transfer, contract or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect, and no such transfer shall be made on the books of any public utility. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired."

Similar provisions are found in the laws of Illinois, Indiana, Maine, New York, New Jersey, North Dakota, Maryland and Missouri. The conference should consider the subject matter of the foregoing provisions along with the stock and bond laws.

With foregoing introductory remarks the following tentative draft of the Uniform Public Service Act is respectfully submitted to the conference.

E. BLYTHE STASON,
Assistant to Committee.

The Committee:

HAZEN I. SAWYER, *Chairman*
CHESTER I. LONG
GURNEY E. NEWLIN
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GEORGE E. BEERS
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W. H. FOLLAND

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NATHAN WILLIAM MACCHESNEY, *President*

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UNIFORM PUBLIC SERVICE ACT

AN ACT

DEFINING PUBLIC UTILITIES, CREATING AND ESTABLISHING A PUBLIC SERVICE COMMISSION, PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSION AND CERTAIN RIGHTS AND DUTIES OF PUBLIC UTILITIES, PROVIDING PENALTIES FOR VIOLATIONS OF PROVISIONS OF THE ACT, AND REPEALING LAWS IN CONFLICT WITH THE PROVISIONS THEREOF

1 SECTION 1. (*Short Title*)—This act shall be known as the
2 “Uniform Public Service Act” and shall apply to the public
3 utilities and public services herein defined and to the commission
4 herein referred to.

1 SECTION 2. (*Creation of Commission*)—A commission to be
2 known as the “Public Service Commission of . . .” is hereby
3 created and shall consist of . . . members, who shall be appointed
4 by the governor from the state at large with the approval of the
5 senate, and who shall have the jurisdiction, powers and duties
6 hereinafter set forth. The term of office of each commissioner,
7 except those first appointed, shall be six years, their terms expiring
8 successively on the The governor shall biennially on
9 day of, or whenever a vacancy in the
10 chairmanship may occur, appoint one of the members chairman
11 who shall remain chairman until his successor is duly appointed
12 and qualified.

Note: In the following twenty-two states the commissioners are appointed by the governor usually with the advice and consent of the senate: California, Colorado, Idaho, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, West Virginia and Wisconsin.

In the following twelve states they are elected from the state at large: Alabama, Arizona, Florida, Georgia, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Carolina, North Dakota and Oklahoma.

In the following eight states they are elected by utility districts: Arkansas, Kentucky, Louisiana, Mississippi, Oregon, South Carolina, South Dakota and Tennessee.

The practice of appointment by the governor with the approval of the general assembly or the senate is not only the most widely used method but, in general, seems to result in a stronger personnel on the several commissions.

1 SECTION 3. (*Oath of Office—Eligibility*)—Before entering upon
2 the duties of his office, each of said commissioners shall take and
3 subscribe to the constitutional oath of office, and shall in addition
4 thereto, swear that he is not pecuniarily interested in any public
5 utility as herein defined as employee, stockholder, security holder,
6 or bondholder, and if any such commissioner shall thereafter volun-
7 tarily become thus pecuniarily interested in any public utility he
8 shall be subject to removal, and in case he shall become so in-
9 terested otherwise than voluntarily, he shall, within a reasonable
10 time, divest himself of such ownership or interest; and failing to do
11 so he shall become subject to removal.

Note: Perhaps the act should specify the manner of "removal," or at least allocate the power to remove. Calif. G. L. 1923 (Deering), Act 6386, Sec. 7 provides that the office shall "become vacant" if the commissioner becomes pecuniarily interested in a public utility. "Vacancies" are filled by the governor.

Sec. 3 of the California Law also provides that "the legislature, by two-thirds vote of all members elected to each house, may remove any one or more of said commissioners from office for dereliction in duty or corruption or incompetency." N. Y., C. L. 1923 (Cahill), Ch. 49, Sec. 4 contains a similar provision.

1 SECTION 4. (*Vacancies*)—Whenever a vacancy in the office
2 of commissioner shall occur, it shall be filled for the unexpired term
3 in the manner provided in section two (2) hereof with respect to orig-
4 inal appointments, except that the governor may make interim ap-
5 pointments subject to confirmation or rejection by the senate
6 when the same shall meet in session.

1 SECTION 5. (*Secretary*)—The commission shall appoint a secre-
2 tary, who shall hold office during its pleasure. It shall be the
3 duty of the secretary to keep a full and true record of all pro-
4 ceedings of the commission, to issue all necessary process, writs,
5 warrants and notices, and to perform such other duties as the
6 commission may prescribe.

1 SECTION 6. (*Legal Representative*)—It shall be the duty of the
2 attorney general of the state upon request of the commission to
3 represent and appear for the commission in all actions and pro-

4 ceedings involving any question under this act and to aid in any
5 investigation or hearing had under the provisions hereof. The
6 attorney general shall perform such duties and services in con-
7 nection with this act and the enforcement thereof as the com-
8 mission may require. He shall also bring all actions to collect
9 penalties hereunder provided.

Note: Calif. G. L. (Deering) 1923 Act 6386 Sec. 4 and N. Y. C. L. (Cahill) 1923, Ch. 49 Sec. 6 authorize the commission to select special counsel. Probably a majority of the acts provide for legal representation by the attorney general's office.

1 SECTION 7. (*Examiners and Employees*)—The commission
2 shall have power to employ during its pleasure such examiners, ex-
3 perts, engineers, statisticians, accountants, inspectors, clerks and
4 employees as it may deem necessary to carry out the provisions of
5 this act. The examiners shall have power to administer oaths,
6 examine witnesses, issue subpoenas, and take evidence under
7 such rules and regulations as the commission may adopt.

Note: Similar provisions appear in the laws of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Wisconsin, and Wyoming. The laws of most of these states differ from the Uniform Act in that they do not contain the second sentence.

1 SECTION 8. (*Salaries and Expenses*)—The annual salary of each
2 commissioner shall be (.....). Examiners, experts, engi-
3 neers, statisticians, accountants, inspectors, clerks and other em-
4 ployees of the commission shall receive such compensation as may
5 be fixed by the commission.

6 The salary or compensation of the commissioners and every
7 person employed by the commission together with all expenses in-
8 curred by the commission pursuant to the provisions of this act,
9 including the actual and necessary traveling and other expenses of
10 the commissioners, and those employed by the commissions, in
11 curred while on the business of the commission, shall be paid from
12 the funds appropriated for the use of the commission, such pay-
13 ments to be made as the salaries, compensation and expenses of
14 other state officers and employees are paid.

1 SECTION 9. (*Office—Meetings*)—The principal office of the com-
2 mission shall be in the city of, and shall be open
3 daily during usual business hours, Sundays and legal holidays ex-
4 cepted. The commission shall hold stated meetings at its prin-
5 cipal office and at such other convenient places in the state as
6 may be expedient or necessary for the proper performance of its
7 duties.

Note: Calif. G. L. (Deering) 1923 Act 6386 Sec. 8 (a) provides that for the purpose of holding sessions in other places than that of the principal office the commission shall have power to rent offices and the expenses thereof shall be paid in the same manner as are other commission expenses.

1 SECTION 10. (*Seal*)—The commission shall have a seal bearing
2 the following inscription: "Public Service Commission of"
3 The seal shall be affixed to all authentications of copies of records
4 and to such other instruments as the commission shall direct.
5 All courts of this state shall take judicial notice of said seal.

1 SECTION 11. (*Quorum*)—A majority of the commissioners in
2 office shall constitute a quorum for the transaction of any business,
3 for the performance of any duty or for the exercise of any power of
4 the commission. No vacancy in the commission shall impair the
5 right of the remaining commissioners to exercise all the powers of
6 the commission. The act of a majority of the commissioners shall
7 be deemed to be the act of the commission; but any investigation,
8 inquiry or hearing which the commission has power to undertake or
9 hold may be undertaken or held by or before any commissioner or
10 commissioners or examiner designated for the purpose by the com-
11 mission. The evidence in any investigation, inquiry or hearing
12 may be taken by the commissioner or commissioners or examiner
13 to whom such investigation, inquiry or hearing has been assigned.
14 Every finding, opinion, and order made by the commissioner or
15 commissioners, so assigned, pursuant to such investigation, inquiry
16 or hearing, when approved or confirmed by the commission shall
17 be deemed to be the finding, opinion and order of the commission.

Note: Almost identical with Calif. G. L. (Deering) 1923 Act 6386 Sec. 9. Similar to N. Y. C. L. (Cahill) 1923 Ch. 49 Sec. 11. Similar provisions also appear in the laws of the District of Columbia, Arizona, Idaho, Maryland, Missouri, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, and Wyoming.

1 SECTION 12. (*Reports and Records*)—All decisions and orders of
2 the commission shall be public records. The commission shall
3 make and submit to the governor on or before the first day of
4 of each year, a report containing a full and com-
5 plete account of its transactions and proceedings for the preced-
6 ing fiscal year, together with such other facts, suggestions, and
7 recommendations as it may deem of value to the people of the
8 state.

1 SECTION 13. (*Definitions*)—(a) The term “corporation,”
2 when used in this act, includes a municipality, a private corpora-
3 tion, an association, a joint stock association or a business trust.

Note: The Uniform Act gives the commission control over municipally owned utilities. The utility laws of the following states do likewise: California, Colorado, Indiana, Maine, Maryland, Montana, Nevada, New York, Utah, Vermont (except waterworks), West Virginia, Wisconsin and Wyoming. The following states exempt municipally owned utilities from commission control: Alabama, Arkansas, Connecticut, Idaho, Illinois, Louisiana, Michigan, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Virginia and Washington. For the sake of uniformity in policy the inclusion of municipally owned utilities seems desirable.

4 (b) The term “person” when used in this act, includes a natural
5 person, a partnership or two or more persons having a joint or
6 common interest, and a corporation as hereinbefore defined.

7 (c) The term “municipality,” when used in this act, includes a
8 city, a city and county, a county, a village, a town, a lighting
9 district and any other public corporation existing, created or organ-
10 ized as a governmental unit under the constitution or laws of the
11 State.

12 (d) The term “public utility” when used in this act means per-
13 sons and corporations, or their lessees, trustees and receivers
14 now or hereafter owning or operating in this state equipment or
15 facilities used by such person or corporation for:

16 (1) Producing, generating, transmitting, distributing, deliver-
17 ing or furnishing electricity, gas or heat to or for the public in this
18 state for compensation;

19 (2) Diverting, developing, pumping, impounding, distributing or
20 furnishing water to or for the public in this state for compensation.

21 (3) Transporting freight or passengers for hire for the public,
22 including interurban, suburban and street railways, but not in-
23 cluding railroads, or taxicab service in cities or towns. This act is
24 not intended to affect existing state jurisdiction over steam rail-
25 roads, or modify or invalidate existing statutory regulations of
26 such railroads.

Note: It is somewhat unusual to attempt a distinction between "inter-urban railways" and "railroads," including the one and excluding the other. In fact most of the commission laws simply include "common carriers" along with the other utilities, within the commission jurisdiction, and then proceed to define that term. See Calif. G. L. (Deering) 1923 Act 6386 Sec. 2, a typical act, which defines common carriers to include "every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping car, dining car, drawing room car, freight, freight line, refrigerator, oil, stock, fruit, car-loaning, car renting, car loading and every other car corporation or person their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state."

However the railroad is of such a nature as to demand a good deal of special statutory treatment and the special provisions of the several states with reference to such matters as side track connections, tariffs, passes, long and short hauls, etc., are both voluminous and diverse. Moreover some of the provisions are superseded by federal action and others depend upon co-operative action with the Interstate Commerce Commission. On the whole it has seemed advisable, at least at the outset, not to attempt to provide in the Uniform Act for this portion of the field.

Probably the Uniform Act should define the term "interurban railways" with some care in order that there may be no confusion as to the scope of the act.

27 (4) Transporting or conveying gas, crude oil or other fluid
28 substance by pipe line for hire.

29 (5) Conveying and transmitting messages or communications
30 by telephone or telegraph, where such service is offered to the
31 public for compensation.

32 The term "public utility" shall not include any person or cor-
33 poration not otherwise a public utility, who furnishes the service
34 or commodity only to himself or itself or his or its tenants when
35 such service or commodity is not resold to or used by others.
36 The business of any public utility other than of the character de-
37 fined in subdivisions 1 to 5, inclusive, of subdivision (d) of this
38 section, shall not be subject to the provisions of this act.

Note: The following additional utilities are placed under commission control in some of the states: railroads, wharfingers, warehousemen, stock yards, corporations holding majority of stock of utilities, passenger terminals and union depots, canal companies, storage elevators, packing and cold storage companies for the marketing, storage or handling of food or other agricultural products, and some acts contain the blanket provision "all other public utilities."

(e) The term "rate," when used in this act, means and includes every compensation, charge, fare, toll, rental and classification, or any of them, demanded, observed, charged or collected by any public utility for any service, product or commodity, offered by it to the public, and any rules, regulations, practices or contracts affecting any such compensation, charge, fare, toll, rental or classification.

Note: The definition of the term "rate" is made rather inclusive to avoid repetition and prolixity in those sections which use the term.

SECTION 14. (*Rates*)—Every rate made, demanded or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable to both the public and the utility or utilities.

Note: Most of the acts contain similar provisions and also add language such as the following:

Calif. G. L. (Deering) 1923 Act 6386 Sec. 13a "Every unjust or unreasonable charge, made, demanded or received for such product, commodity or service, is hereby prohibited and declared unlawful."

N. Y. C. L. (Cahill) 1923 Ch. 49 Sec. 26, 65, 79, 91. "Every unjust or unreasonable charge made or demanded for any service—or in excess of that allowed by law or by order of the commission is prohibited."

These provisions merely express the common law as to the power of the state to regulate the rates of utilities, and the economic and constitutional restrictions which prevent reduction of rates below that which amounts to a reasonable return.

SECTION 15. (*Service*)—Every public utility shall furnish adequate, efficient and reasonable service to the full extent that it is commercially feasible so to do. In the consideration of rates by the commission, attention shall be given among other things to the fact that the public utility must be able from time to time to secure, on reasonable terms, adequate capital for the extension, development and expansion of its equipment and facilities for service as public convenience or necessity may require.

Note: In some respects this section is unusual. A more common form of statute is that found in Section 13 of the California Utility Act. It is as follows: "(b) Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, comfort and convenience of its patrons, employees, and the public, and as shall be, in all respects adequate, efficient, just and reasonable."

Practically all the acts contain provisions either literally or in substance similar to the California law, the principal variation from the language quoted being to eliminate the phrase, "as shall promote the health, comfort and convenience of its patrons, employees and the public." The acts of Arizona, Colorado, Idaho and Utah contain the exact language of the California act. The acts of the District of Columbia, Kansas, Maine, Maryland, Missouri, Montana, Nevada, New York, Ohio, Pennsylvania, Washington, Wisconsin and Wyoming are similar after eliminating the above quoted phrase.

It should be noted that the Uniform Act departs from the typical statute by including the phrase, "to the full extent that it is commercially feasible to do so." The effect of these words should be carefully considered. The act is not intended to reduce the common law obligations of the utilities. Courts have held, although it cannot be said to be well established law, that a utility may be compelled by a commission order to make extensions into sparsely settled but growing portions of its territory, even though the receipts from the service rendered in such new territory will not, at the outset, pay a fair return on the cost of the extension, provided always that the total return on the utility's total investment is fair, and provided further that the extension may be expected to pay within a reasonable time. This requirement of the law fosters suburban development and extensions of this character are merely "reasonable service." *Lukraka v. Spring Valley Water Company*, 169 Calif. 318; *N. Y. and Queens Gas Co. v. McCall*, 245 U. S. 345.

The second sentence of Sec. 15 might well be removed to Sec. 20 and made a part thereof.

1 SECTION 16. (*Schedules*)—Under such rules and regulations as
2 the commission may prescribe, every public utility shall file with
3 the commission, within such time and in such form as the com-
4 mission may designate, schedules showing all rates established by it
5 and collected or enforced, or to be collected or enforced within the
6 jurisdiction of the commission.

Note: Practically all of the statutes contain a provision similar to the above. Most of the state laws however go a little further and, in addition to the foregoing, require that the utility shall "print and keep open to public inspection" these schedules. See Calif. G. L. (Deering) 1923, Act. 6386 Sec. 14 (b); and N. Y. C. L. (Cahill) 1923 Ch. 49 Sec. 28.

Wis. st. 1919, Sec. 1797 m-29 provides that the utility shall keep open to the public a copy of so much of the schedule as the commission may deem necessary. This provision has the merit of elasticity. Considerable unnecessary printing can be eliminated. Probably some suitable provision should be made in the Uniform Act for publicity of schedules.

1 SECTION 17. (*Adherence to Schedules*)—No public utility shall
2 directly or indirectly, by any device whatsoever, or in any wise,
3 charge, demand, collect or receive from any person a greater or
4 less compensation for any service rendered or to be rendered by
5 such public utility than that prescribed in the schedules of such
6 public utility applicable thereto then filed and published in the
7 manner provided in this act nor shall any person receive or accept
8 any service from a public utility for a compensation greater or
9 less than that prescribed in such schedules.

Note: This section appears in practically all of the statutes. See Calif. G. L. (Deering) 1923, Act 6386, Sec. 17 (2). It was originally taken from the Interstate Commerce Act.

1 SECTION 18. (*Discrimination*)—No public utility shall, as to
2 rates, make or grant any unreasonable preference or advantage to
3 any corporation or person or subject any corporation or person to
4 any unreasonable prejudice or disadvantage. No public utility
5 shall establish or maintain any unreasonable difference as to
6 rates, either as between localities or as between classes of service.
7 The commission shall have the power to determine any question of
8 fact arising under this section. This section shall not be con-
9 strued, however, to prohibit public utilities from giving free or
10 reduced rate service to their employees and their families, or to
11 their officers, agents and attorneys.

Note: This section, too, originated with the Interstate Commerce Act.

It is quite common to prohibit discrimination not only "as to rates" but also as to other matters. The California Act, Sec. 19 applies to "rates, charges, service, facilities or in any other respect." Of course Sec. 13 (e) of the Uniform Act contains a very broad and inclusive definition of the term "rate." It does not, however, include the idea of "service." Perhaps this matter is sufficiently covered by Section 15 which provides for "reasonable service," but the addition of an express prohibition of unreasonable discrimination as to service in Section 18 would eliminate all question on the point.

1 SECTION 19. (*Changes in Rates*)—Unless the commission other-
2 wise orders, no public utility shall make any change in any rate

3 which shall have been duly established under this act, except after
4 thirty days' notice to the commission, which notice shall plainly
5 state the changes proposed to be made in the rates then in force,
6 and the time when the changed rates will go into effect; and all
7 proposed changes shall be shown by filing new schedules, or shall
8 be plainly indicated upon schedules filed and in force at the time
9 and kept open to public inspection. The commission, for good
10 cause shown, may allow changes in rates, without requiring the
11 thirty days' notice, under such conditions as it may prescribe;
12 all such changes shall be immediately indicated upon its schedules
13 by such public utility.

14 Whenever there shall be filed with the commission by any public
15 utility any schedule stating a new rate or rates, the commission
16 shall have and it is hereby given authority, either upon complaint
17 or upon its own initiative, upon reasonable notice, to enter upon a
18 hearing concerning the lawfulness of such rate or rates; and
19 pending such hearing and the decision thereon the commission,
20 upon filing with such schedule and delivering to the utility affected
21 thereby a statement in writing of its reasons therefor, may, at
22 any time before they become effective, suspend the operation of
23 such rate or rates, but not for a longer period than ninety (90)
24 days beyond the time when such rate or rates would otherwise go
25 into effect; provided, however, and notwithstanding any such
26 order of suspension, the public utility may put such suspended rate
27 or rates into effect on the date when it or they would have be-
28 come effective, if not so suspended, by filing with the commission a
29 bond in a reasonable amount approved by the commission, with
30 sureties approved by the commission, conditioned upon the re-
31 fund, in manner to be prescribed by order of the commission, to
32 the persons entitled thereto of the amount of the excess, if the
33 rate or rates so put into effect shall be finally determined to be
34 excessive; or there may be substituted for such bond, other ar-
35 rangements satisfactory to the commission for the protection of
36 the parties interested. If the public utility shall fail to make re-
37 fund within thirty (30) days after such final determination any
38 person entitled to such refund may sue therefore in any court
39 of this state of general jurisdiction and be entitled to recover, in

40 addition to the amount of the refund due, all court costs and
41 reasonable attorney's fees, but no suit shall be maintained for
42 that purpose unless instituted within two years after such final
43 determination. During any such period of suspension the com-
44 mission shall have power, in its discretion, to require that the
45 public utility involved shall furnish to its consumers or patrons a
46 certificate or other evidence of payments made by them under the
47 rate or rates which the public utility has put into operation in
48 excess of the rate or rates in effect immediately prior thereto.

49 If, after such hearing, the commission shall find any such rate or
50 rates to be unjust, unreasonable or unjustly discriminatory, or in
51 any wise in violation of law, the commission shall determine the
52 just and reasonable rate or rates to be charged or applied by the
53 utility for the service in question, and shall fix the same by order
54 to be served upon the utility; and such rate or rates are thereafter
55 to be observed until changed, as provided by law.

Note: The first paragraph of this section is in substance the law in the majority of the states. The same is true of the second paragraph except for the provision with reference to a supersedeas bond. In general there are three methods of handling the matter of changes in rates schedules.

The first and by far the most common statutory provision authorizes the utility to file a new rate schedule to go into effect after a certain number of days if the commission fails to act upon it, but gives the commission power to institute a hearing and investigate the reasonableness of the proposed rates. Pending this hearing and its determination the commission is given the power to suspend the proposed rates for a certain period of time. No provision is made for superseding the suspension order such as is made by the Uniform Act. This practice is followed in Alabama, Arkansas, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Missouri, New York, New Hampshire, Nevada, New Jersey, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Virginia, West Virginia and Wyoming. The suspension periods vary in length. A common time limit is 120 days, with an allowance of an additional period of six months if needed. This is the case in Illinois, Missouri, New York, North Dakota, Oregon, South Dakota and West Virginia. In these states and also in Arkansas, Maine, Massachusetts, New Hampshire, New Jersey and Virginia six months or more suspension is permitted. In Indiana and Michigan, Nevada, Ohio, Rhode Island and Wyoming the suspension period is shortened to ninety days or less. The time of suspension should depend primarily upon the length of time required by the commission adequately to investigate the proposed change in schedule. In normal times a few weeks more or less will

mean but little to the utility but it may mean a good deal in the character of the investigation which the commission can pursue.

In another class of states no increase of rates can be made under any circumstances without an affirmative order of the commission authorizing the action, although decreases can be made under a procedure similar to that mentioned in the preceding paragraph. This is the practice in California and Arizona. Under such a rule a utility may be seriously prejudiced by protracted investigations during a period of rapidly rising operating costs.

The procedure suggested in the Uniform Act, permitting a supersedeas arrangement, is still a third method of handling changes in rates. It is similar to the provision of the Ohio Utility Law. See Ohio Gen'l Code (Throckmorton) 1921, Sec. 614-20.

There is a good deal to be said in favor of the Ohio provision. It permits the rate schedules to be quickly adjusted to sudden and unforeseeable changes in operating costs without a very serious prejudice to the consumer. Commission investigations are apt to be lengthy and the utility may easily suffer serious injury by the delay even though the delay continues only for the period provided for suspension. The consumer is fairly well protected by the surety bond although he suffers the inconvenience of having to pay, subject to refund, what may subsequently prove to be excessive rates.

On the other hand the supersedeas involves considerable additional overhead expense and, furthermore, the utility can ordinarily estimate its earnings for a sufficient time in advance so that it is able to allow for time for investigation of proposed changes.

The weight of reason seems to favor the provision as it is now included in the Uniform Act. It might be desirable in view of the fact that supersedeas is provided for, to modify the time limit on suspension. Careful consideration of the foregoing section is requested of the conference.

1 SECTION 20. (*Rates Fixed on Complaint*)—Whenever the com-
2 mission, after a hearing had after due notice upon its own motion or
3 upon complaint, shall find that the existing rates in effect and
4 collected by any public utility for any service, product, or com-
5 modity, are unjust, unreasonable, insufficient or discriminatory,
6 or in any wise in violation of any provision of law, the commission
7 shall determine the just, reasonable, or sufficient rates to be there-
8 after observed and in force, and shall fix the same by order as
9 hereinafter provided.

10 Similar sections are found in all utility acts.

1 SECTION 21. (*Sliding Scale of Rates*)—Nothing in this act shall
2 be taken to prohibit a public utility from establishing a sliding
3 scale of charges, or from entering into and making charges in ac-

4 cordance with the terms of an agreement for a fixed period for the
5 automatic adjustment of charges, for public utility service, in re-
6 lation to the dividends to be paid to stockholders of such public
7 utility, or the profit to be realized or expense of operation or other
8 equitable or reasonable basis for such adjustment; provided, that a
9 schedule showing the scale of charges under such arrangement
10 shall first have been filed with the commission and such schedule
11 and each rate set out therein approved by it. Nothing in this
12 section shall prevent the commission from revoking its approval at
13 any time and fixing other rates and charges for the product or
14 commodity or service, if after adequate notice and full hearing the
15 commission shall find the existing rates or charges unjust, un-
16 reasonable, insufficient or discriminatory.

Note: This section authorizes the use of the so-called "London" or "Boston" sliding scale of charges. The procedure consists of adopting a standard charge and a standard rate of return, and providing that for reductions in charges to customers the utility may pay to its stockholders specified increases in dividends. The theory of the provision is that the desire for increased dividends will furnish a stimulus for increased skill, efficiency and economy in operation. Similar sections appear in the laws of Arizona, Colorado, Idaho, Missouri, New Hampshire, New York, North Dakota, Ohio, Utah, Washington, Wisconsin and Wyoming.

The section also authorizes automatic changes in rates according to increases or decreases in prices of coal, oil, etc. Such a method of adjustment was found especially desirable during and after the war as a temporary expedient. A number of state commissions even used the method without express statutory authorization by attaching "riders" to the rate schedules. See *Re. Pacific G. & E. Co.*, P. U. R., 1922 A. 269 (Calif.), and *Re. Lynchburg T. & L. Co.*, P. U. R., 1921 E. 87 (Va.).

The section is beneficial to the extent that it accomplishes an equitable re-adjustment of rates without the formality and expense of rate hearings.

In many of the states a section relating to profit sharing such as the following, which is Sec. 20 of the California Utility Act, appears in connection with the sliding scale section.

"Nothing in this act shall be taken to prohibit any public utility from itself profiting, to the extent permitted by the commission, from any economies, efficiencies or improvements which it may make, and from distributing by way of dividends, or otherwise disposing of, the profits to which it may be so entitled, and the commission is authorized to make or permit such arrangement or arrangements with any public utility as it may deem wise for the purpose of encouraging economies, efficiencies or improvements and

securing to the public utility making the same such portion, if any, of the profits thereof as the commission may determine."

Many of the so-called service-at-cost franchises with sliding scales of allowed return based on charges to customers can be pointed to as practical applications of the foregoing provisions.

1 SECTION 22. (*Joint Use of Telephone Facilities*)—The com-
2 mission shall have the power upon complaint, in writing, by any
3 person, or on its own initiative, by order, to require any two or
4 more telephone companies whose lines or wires form a continuous
5 line of communication, or could be made to do so by the construc-
6 tion and maintenance of suitable connections or the joint use of
7 equipment, or the transfer of messages at common points, between
8 different localities which cannot be communicated with or reached
9 by the lines of either company alone, where such service is not al-
10 ready established or provided for, to establish and maintain
11 through lines within the state between two or more such localities.
12 The rate for such service shall be just and reasonable and the
13 commission shall have power to establish the same, and declare the
14 portion thereof to which each company affected thereby shall be
15 entitled and the manner in which the same shall be secured and
16 paid. All necessary construction, maintenance and equipment in
17 order to establish such service shall be constructed and main-
18 tained in such manner and under such rules, with such division of
19 expense and labor as shall or may be required by the commission.

Note: It might be supposed that the subject matter of this section has been sufficiently covered by sections 20 and 23. However, it is a familiar rule of statutory construction that statutes which delegate powers shall be strictly construed. In the light of this rule and because of a desire that the subject matter of this section be without question included within the commission powers, the section has been written into the Uniform Act. Similar provisions are found in Idaho, Illinois, Indiana, Louisiana, Kentucky, Maine, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Washington, West Virginia and Wisconsin and with some modifications in California, Arizona, Colorado, Florida, Missouri, Ohio, Pennsylvania and Utah. In most of these states telegraph as well as telephone facilities are included.

The foregoing provisions are frequently found in conjunction with provisions for the joint use of equipment, such as the following:

"Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public convenience

and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over, or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment for such damage as may result therefrom to the property of such owner or other users thereof, and the commission shall have power to ascertain and direct the payment, prior to such use, of fair and just compensation for damage suffered, if any."—Calif. Gen. Laws (Deering) Act 6386, Sec. 41.

Such provisions appear in the laws of Arizona, Colorado, Idaho, Illinois, Indiana, Maine, North Dakota, Ohio, Oregon, Utah, West Virginia.

1 SECTION 23. (*Service Fixed on Complaint*)—Whenever the
2 commission, after a hearing after due notice had upon its own
3 motion or upon complaint, shall find that the service of any
4 public utility is unreasonable, unsafe, inadequate or insufficient,
5 the commission shall determine the reasonable, safe, adequate or
6 sufficient service to be observed, furnished, enforced or employed
7 and shall fix the same by its order, rule or regulation.

Note: Similar sections appear in all utility statutes. The only question which is apt to arise under it is the extent of the power delegated to the commission. The rule of construction of statutes delegating powers is again applicable, and in order to eliminate the possibility of controversy it is rather good practice to support this section by a more specific enumeration of the powers of the commission to control service. The following section in the Uniform Act, i. e. Sec. 24, does just this.

Many of the acts also specifically give the commission power to order necessary and reasonable improvements, alterations and extensions of service. See Calif. G. L. (Deering) 1923, Act 6386, Sec. 36. which provides in part as follows:

"Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or

the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order."

A provision similar to this has been enacted in Arizona, Colorado, Idaho, Illinois, Utah and Washington and with some variations in Ohio, North Carolina, Rhode Island, Missouri, New York, New Jersey, Oregon, Pennsylvania, Tennessee and New Hampshire. It is possible that the power to order improvements and extensions may be implied from the general language of Sec. 23. Under a similar section the Maine commission has ordered extensions. See *Churchill vs. L. & P. Co. (Me.)* P. U. R. 1916 F 752. However, the specific authorization eliminates controversy on the point and probably should be made.

1 SECTION 24. (*Standards of Service*)—The commission shall
2 have power, after hearing had upon its own motion or upon
3 complaint, to ascertain and fix just and reasonable standards,
4 classifications, regulations, practices or service to be furnished,
5 imposed, observed and followed by any or all public utilities;
6 to ascertain and fix adequate and reasonable standards for the
7 measurement of quantity, quality, pressure, initial voltage or
8 other condition pertaining to the supply of the product, com-
9 modity or service furnished or rendered by any and all public
0 utilities; to prescribe reasonable regulations for the examination
11 and testing of such product, commodity or service and for the
12 measurement thereof; to establish or approve reasonable rules,
13 regulations, specifications and standards to secure the accuracy of
14 all meters and appliances for measurement; and to provide for
15 the examination and testing of any and all appliances used for the
16 measurement of any product, commodity or service of any public
17 utility.

Note: This section is practically identical with Sec. 46a of the California Utility Act, and similar provisions also appear in the District of Columbia, Alabama, Arizona, Colorado, Florida, Illinois, Indiana, Kansas, Montana, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Wisconsin.

1 SECTION 25. (*Valuation*)—The commission shall have power to
2 ascertain and fix the value of the whole or any part of the property
3 of any public utility in so far as the same is material to the exercise
4 of the jurisdiction of the commission, and to make revaluations

5 from time to time and to ascertain the value of all new construction
6 extensions and additions to the property of every public utility.
7 Due notice to the public utility affected shall be given of all hear-
8 ings held pursuant to the provisions of this section.

Note: This section is pivotal. Rates are directly dependent upon the "value" of the utility property. "What a company is entitled to ask is a fair return upon the value of that which it employs for the public convenience." *Smyth v. Ames*, 169 U. S. 466. But what is "value?" More has been written and less actually determined in connection with that simple word than on any other problem involved in the regulation of public service companies. In *Smyth v. Ames* the court says "in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates described by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case."

Such is the celebrated rule of *Smyth v. Ames*. Its impracticability as a working formula in evaluating utility properties is obvious. Most of the elements of value suggested by the court in that case are ignored by the courts and commissions today in rate controversies. Those interested in utility valuation at the present time are divided into two groups, those who declare that the "cost of reproduction" should be accepted as the "value" or at least as the most weighty factor in the determination thereof, and those who would see the value declared to be the original "prudent investment" in the utility property. Commissions dealing first hand and in a practical way with valuation problems have a strong inclination toward the latter theory. On the other hand most of the courts, although in hopeless conflict on many details, seem pretty well though perhaps not irrevocably committed to the former. *Southwestern Tel. Co. v. Pub. Ser. Com.*, 262 U. S. 276; *Georgia Ry. & P. Co. v. R. R. Com.* 262 U. S. 625. The commissions of some states have even been reversed for adhering to the prudent investment theory to the exclusion of the cost of reproduction. See *Springfield v. Springfield G. and E. Co.*, 291 Ill. 209.

So far as the structure of the Uniform Act is concerned the Conference should consider whether or not it will attempt to clarify the situation by statutory phraseology. Sec. 25 does nothing to establish a clear cut rule as to that which shall be considered in the valuation of utility property. In this respect it is no different from the typical statutes on this phase of regulation. Most statutes provide as does the Uniform Act for valuations to be made by the commissions but they permit the commissions and the courts on appeal to fix their own bases for determining value.

Some states such as Washington, specify the elements which shall be ascertained by the commission in the course of valuation, but these statutes do not specify the weight to be given to the several elements.

The state of North Dakota however has an original and interesting enactment. It provides as follows:

"The value of the property of a public utility company, as determined by the Commissioners, shall be such sum as represents, as nearly as can be ascertained, the money honestly and prudently invested in the property." Laws of N. D. 1919, Ch. 192, Sec. 37 (g).

This law stands alone among the state laws in its attempt to clarify the haze that surrounds the term "value." It declares the prudent investment theory to be the law of North Dakota. It is possible that in a test case this act may be found to violate the Fourteenth Amendment. On the other hand it is probably a fair statement that the present uncertainty and conflict of judicial opinion on the question of valuation and rate bases is such as to leave the whole question open for re-examination and the prudent investment theory, dignified by having become a legislative enactment, may stand the constitutional test.

The Federal Water Power Act of 1920 contains the following provision which is made a condition upon which the license is granted:—

"In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any projects under the license in excess of the value or values prescribed in Section 14 hereof . . ." Section 14 prescribes as the compensation to be paid in case of purchase "the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property . . ." 41 Stat. L 1063, Sec. 20.

As before suggested the matter of valuation is fundamental. A thorough-going presentation of the conflicting theories of valuation, the legal and economic advantages and disadvantages of each and the possibilities for remedial legislation should be sought by the conference and the whole question should be considered with the utmost care.

- 1 SECTION 26. (*System of Accounts*)—The commission shall have
- 2 power to establish a system of accounts to be kept by the public
- 3 utilities, subject to its jurisdiction, or to classify said public util-
- 4 ities and to establish a system of accounts for each class, and to
- 5 prescribe the manner in which such accounts shall be kept.

Note: This section is found in practically all of the utility acts. Many of the acts provide also that the system of accounts shall not be inconsistent with the system established by the Interstate Commerce Commission. See Calif. G. L. (Deering) 1923, Act 6386, Sec. 48.

A common and quite meritorious additional provision found in Arizona, California, Colorado, Maryland, Missouri, New York, Ohio, Pennsylvania, Utah and Washington is as follows:

"The commission may, after hearing had upon its own motion or upon complaint, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. . . . Calif. Gen. Laws, 1923, Act. 6386, Sec. 48." Possibly this matter is covered in the Uniform Act by the phrase, "to prescribe the manner in which such accounts shall be kept," but the additional language would remove all doubt.

Another provision which is worth noting is as follows:

"Where the commission has prescribed the forms of accounts, records or memoranda to be kept by any public utility for any of its business, it shall thereafter be unlawful for such public utility to keep any accounts, records or memoranda for such business other than those so prescribed, or those prescribed by or under the authority of any other state or of the United States, excepting such accounts, records or memoranda as shall be explanatory of and supplemental to the accounts, records or memoranda prescribed by the commission. Calif. G. L. (Deering) 1923, Act 6386, Sec. 48."

This section appears in the laws of Arizona, Colorado, Idaho, North Dakota, Utah, Maine, New Hampshire, Ohio, Maryland, Oregon, Illinois, Wisconsin and Montana.

Some acts provide for the keeping of all the utility books and records within the state so far as required by the commission. See Calif. G. L. (Deering) 1923, Act 6386, Sec. 59a, and also the laws of Alabama, Illinois, Pennsylvania, Utah, Indiana, Montana, Oregon and Wisconsin.

The purpose of all these regulations and restrictions is to secure uniform and accurate accounting. One of the great services that commissions have rendered both to the public and to the utilities has been the establishment of uniform accounting systems designed to show all the facts necessary in aid of just and fair regulation. The National Association of Railway and Utilities Commissioners has promulgated a uniform system of accounts which has been adopted in about 26 states and which prescribes in great detail the form and substance of the several accounts.

1 SECTION 27. (*Authority to Enter Premises*)—The commissioners
2 and their officers and employees shall have the right during all
3 reasonable hours to enter upon any premises occupied by any
4 public utility, for the purpose of making the examinations and
5 tests and exercising any of the other powers provided for in
6 this act, and to set up and use on such premises any apparatus
7 and appliances necessary therefor. Such public utility shall have
8 the right to be represented at the making of such examination,
9 tests and inspections.

1 SECTION 28. (*Reports*)—The commission shall have authority
2 to require any public utility to file annual reports in such form as
3 the commission may require and special reports concerning any
4 matter about which the commission is authorized by this or any
5 other act to inquire or to keep itself informed, or which it is re-
6 quired to enforce. All reports shall be under oath when required
7 by the commission.

Note: All of the state laws require general reports from the utilities, and most of them add the requirement for such special reports as may be deemed necessary by the commission. Many of them prescribe the exact items to be reported upon by the utilities, but this seems to be an unnecessary detail to add to the statute books.

However, the commission should be given complete power to control the content as well as the form of these reports. Probably, to insure this there should be added, after the word "form" in line 2 of Sec. 28 of the Uniform Act, the phrase "and of such content," or words of like import.

1 SECTION 29. (*New Construction*)—To the end that unnecessary
2 duplication of facilities or service may be prevented no public
3 utility shall henceforth begin the construction or operation of a
4 public service plant or system, or of any extension of such public
5 service plant or system in or into a municipality or territory al-
6 ready served by a like utility performing similar service, without
7 first obtaining from the commission a certificate that public
8 convenience and necessity require or will require such construction
9 or operation; provided, that this section shall not be construed to
10 require any such public utility to secure such certificate for
11 an extension within any municipality within which it shall have
12 heretofore lawfully commenced operations unless such operation
13 shall have been commenced under a limited or conditional cer-
14 tificate or authority as hereinafter provided in Section 31; or for
15 an extension within or to territory already served by it, necessary
16 in the ordinary course of its business; and provided further, that
17 if any public utility in constructing or extending its line, plant
18 or system shall unreasonably interfere or be about unreasonably to
19 interfere with the service or system of any other public utility,
20 the commission on complaint of the public utility claiming to be
21 injuriously affected, may after hearing after due notice make such
22 order and prescribe such terms and conditions in harmony with
23 this act as are just and reasonable.

Note: The purpose of the above section is, of course, to eliminate the duplication of equipment which would result from attempted competition. Section 50 (a) of the California Utility Act and the corresponding sections in the laws of Arizona, Arkansas, Colorado, Idaho, Utah and Wyoming are substantially the same. Most of the utility acts contain provisions of a like character but differing more or less from the above section in respect to the kinds of new construction which must be certified by the commission, but still requiring certificates of necessity for construction into new territory.

1 SECTION 30. (*Exercise of Rights*)—No public utility shall
2 henceforth exercise any right or privilege under any franchise or
3 terminable permit hereafter granted, or under any franchise or
4 permit heretofore granted, the exercise of which has been sus-
5 pended or discontinued for more than one year, without first
6 having obtained from the commission a certificate that public
7 convenience and necessity require the exercise of such right or
8 privilege.

Note: A similar section is found in the laws of Alabama, Arizona, California, Colorado, Idaho, Missouri, Utah and Wyoming, and with some modifications in Arkansas, Maryland, New Hampshire, New York and Wisconsin.

1 SECTION 31. (*Certificate Conditions*)—Every applicant for a
2 certificate shall file in the office of the commission such evidence as
3 shall be required by the commission to show that such applicant
4 has received the required consent, franchise or permit of the
5 proper county, city and county, municipal or other public author-
6 ity where necessary. When a complaint has been filed with the
7 commission alleging that a public utility is engaged or is about
8 to engage in construction work without having secured from the
9 commission a certificate of public convenience and necessity as re-
10 quired by the provisions of this act, the commission shall have
11 power, with or without notice, to make its order requiring the
12 public utility complained of to cease and desist from such con-
13 struction until the commission makes and files its decision on
14 said complaint or until the further order of the commission. The
15 commission shall, as may be determined by public convenience
16 and necessity, issue said certificate or certificates as prayed for
17 or refuse to issue the same, or issue them for the construction or
18 operation of a portion only of the contemplated public utility
19 plant or system, or extension thereof, or for the partial exercise
20 only of said right or privilege, and may issue its certificate with

the condition that the rights granted shall be forfeited for non-user. The commission may have a hearing and in determining questions of public convenience and necessity consider the financial ability and good faith of the applicant, the necessity for additional service and facilities in the community and other relevant matters.

Note: This section is taken almost verbatim from the California Utility Act. Sec. 50 (c). It appears also in part at least in the laws of Arizona, Colorado, Idaho, Utah and Wyoming, all of these laws having followed the form of the California Act rather closely. The same section of the California Act contains the following additional language which has obvious advantages.

"If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after the public utility has obtained the contemplated franchise or permit."

SECTION 32. (*Terminable Permits*)—Any public utility operating under an existing license, permit or franchise heretofore granted by the state or any municipality to occupy the streets or highways for the purpose of carrying on any of the public services defined in this act shall, upon filing with the commission a written declaration that it surrenders such license, permit or franchise, receive by operation of law a "terminable permit" which shall take the place of the surrendered license, permit or franchise, and the utility or its successors or assigns shall hold such permit in accordance with the terms, conditions and limitations of this act. Such terminable permit shall continue in force until such time as a municipality having authority so to do shall purchase the property operated under such permit in accordance with the provisions of this act or until terminated for misuser or non-user according to law.

Note: Too much cannot be said in favor of this and the next section, although some matters of detail may need alteration. Franchises limited to terms of years are illogical. They are unsatisfactory to utilities, investors, and consumers alike. Investments in enterprises which are limited in years of existence should be amortized in such a fashion as to return the money invested at the end of the period. Yet rates should not exceed the

amount necessary to yield a fair return on the value of the utility property and they should not be large enough to amortize the investment. Furthermore there is no economic reason for amortizing the investment. The plant cannot be scrapped at the end of the franchise period. The public must still be served. So grantees of franchises and utility investors are forced to trust in their ability to secure a renewal of the franchise at the end of the period. The political manipulation that attends the termination of the franchise and the effort to secure a new one is familiar to all who have been concerned with local politics. It is of benefit to none except the politicians and is a positive detriment both to the utility and to the public.

The terminable, or as it is more generally known, the indeterminate permit eliminates these objectionable features and gives definiteness and certainty to the status of the utility. On the other hand the public is fully protected by the provisions of the act with reference to termination of the permit and the purchase of the utility property by the public.

Wisconsin adopted an indeterminate permit law in 1907, and it has given eighteen years of satisfactory service. See Wis. St. 1919, Sec. 1797 m—76, 77. Other states which grant indeterminate permits in some form or to some utilities are Indiana, Louisiana, Massachusetts, Oklahoma, California, Minnesota, and Ohio. A bill authorizing such permits was introduced in the last session of the Illinois legislature. Arkansas passed such a law in 1919 but repealed it in 1921. The National Government has adopted the principle of the indeterminate permit and all public service companies in the District of Columbia operate under franchises of that character. All licenses issued under the Federal Water Power Act of 1920 are likewise indeterminate. The public utility commissions of the country have gone on record in favor of the indeterminate permit. See Resolution adopted by National Association of Railway and Utility Commissioners at the Thirty-Fourth Annual Convention, 1922.

The provision for termination of the permit in the Uniform Act may be objectionable because it leaves in some uncertainty the grounds on which the franchise may be terminated and the procedure for so doing. The Wisconsin Statutes (Sec. 1797 m—1, 5) and the Indiana Statutes (Burn's St. 1921, Sec. 10052 a) and the Ohio Statutes (Gen'l Code Throckmorton, 1921, Sec. 4000-1) provide for termination "according to law," but obviously this is no better. The provisions of the Federal Water Power Act are much more satisfactory. 41 Stat. L. 1063, Sec. 26 of that act is in part as follows:

"That the Attorney-General may, on request of the commission or of the Secretary of War, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder. . . . The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders and decrees to

compel compliance with the lawful orders and regulations of the commission and of the Secretary of War, and to compel the performance of any condition imposed under the provisions of this Act. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 14 hereof at the termination of the license."

Probably some similar provision should be drafted for the Uniform Act.

One other matter of detail must be cared for in connection with Sec. 32. There must be an alternative section prepared for use in those states which have constitutional limitations upon the length of franchises. Probably the method of the Federal Water Power Act would be satisfactory, that is the granting of a permit for the maximum period allowed by the constitution with the provision that at the end of that time the permit shall either be renewed for an additional period or the property of the utility shall be purchased by the state.

Should the terminable permit be made expressly subject to future amendments to this act to provide for those states where there is no reserved power to amend in the constitution or where the reserved power is not broad enough to permit future changes of the regulatory features of this act?

1 SECTION 33. (*Future Grants Terminable Permits*)—Every
2 franchise hereafter granted by any municipality to any public
3 utility shall have the effect of a terminable permit as defined in
4 the foregoing section.

1 SECTION 34. (*Purchase by a City or Town*)—Any public utility
2 operating in a city or town under a terminable permit shall be
3 deemed to have consented to the purchase of its property operated
4 in such city or town under such permit by that city or town for
5 just compensation and damages, and such city or town is hereby
6 authorized to make such purchase upon notice to the public
7 utility as herein provided.

Note: For various reasons including constitutional provisions the Wisconsin and Indiana utility laws also provide that by accepting an indeterminate permit a public utility is deemed to have waived the right to a jury

trial on the question of necessity of condemnation proceedings and to have waived all other rights and remedies except those provided by the utility act.

1 SECTION 35. (*Election for Acquisition*)—Any city or town which
2 desires to acquire the property of a public utility as authorized
3 under the provisions of this act shall elect to do so by vote of the
4 city or town council, or city commission, taken after a public
5 hearing, of which at least thirty (30) days notice has been given.
6 Such election shall become effective when ratified and confirmed
7 by a (majority) of the qualified (property tax-paying voters),
8 at a special election to be held for that purpose, not less than
9 sixty (60) nor more than one hundred and twenty (120) days after
10 the passage of the vote of the city or town council or city com-
11 mission.

1 SECTION 36. (*Determination of Compensation*)—Whenever the
2 commission shall have been notified by such city or town or the
3 public utility affected that such city or town has, pursuant to law,
4 elected to purchase the property of the public utility operated by it
5 under the terminable permit in such city or town, and that the
6 parties to such purchase and sale have been unable to agree on the
7 amount to be paid and received therefor, the commission shall
8 proceed to set a time and place for a public hearing, after not less
9 than thirty (30) days notice to the utility and such city or town,
10 upon the matters of just compensation, including any severance
11 and other damages to be paid for the taking of such property by
12 such city or town. Within a reasonable time the commission
13 shall by order, fix and determine and certify to the clerk of such
14 city or town, to the public utility and to any bondholder, mortga-
15 gee, lienor or any other interested party to the hearing the just
16 compensation, including such damages, and the municipality shall
17 be obligated thereupon to make the payment necessary to con-
18 summate such purchase and shall be entitled to possession of such
19 property upon payment therefor; provided, however, that at the
20 written request of the public utility, the time for the taking of
21 possession of such property and for payment therefor shall be
22 postponed to a date not more than one year after the effective
23 ratification of the election to purchase. The order of said com-
24 mission may be reviewed as hereinafter provided in this act.

Note: A possible troublesome feature in this section is the definition of the term "just compensation." Our federal and state constitutions ordinarily leave the matter to judicial determination. See *Monongahela Navigation Co. v. United States*, 148 U. S. 312, 325, *Spring Valley Water Works v. San Francisco*, 124 Fed. 574, 601. More particularly the question is whether or not an allowance shall be made for the franchise or rather the "terminable permit" in fixing compensation. On principle it would seem that the public should not be compelled to pay for that which it has given to the utility free of charge. Yet it is possible to argue and it has been frequently argued in actual cases that a franchise with its right to use public streets is a valuable property right and private property cannot be taken for public use without just compensation.

The position of the courts on this question is not clear. In the early cases it was rather customary to allow franchise values. *Kennebec Water District v. Waterville* 97 Me. 185, 60 L. R. A. 856; *Bristol v. Bristol Water Works*, 23 R. I. 274, 49 Atl. 974; *Galena Water Company v. Galena*, 74 Kan. 644, 87 Pac. 735. But some of the later cases have refused to allow franchise values in fixing compensation for purchase. *Re Portland Water District (Me.)* P. U. R., 1917 D. 907. It is true that under the indeterminate permit law in Wisconsin the Wisconsin Railroad Commission and Supreme Court have held that, since the permit is terminated by the purchase and no longer exists, it has no value to be included in the compensation. See *Re Appleton Water Works Co.*, 6 Wis. R. C. R. 97; *Appleton Water Works Co., v. R. R. Com.*, 154 Wis. 121, 47 L. R. A. (NS) 770. However the matter seems to be somewhat unsettled even under the terminable permit laws.

1 SECTION 37. (*Reinstatement of Franchise*)—If, for any reason,
2 other than for just cause, or through purchase of the property
3 operated thereunder, as provided herein, any terminable permit
4 held by a public utility shall be held to be invalid, the public
5 utility shall, by operation of law and without further act, have
6 reinstated in it the franchise or franchises surrendered by it in
7 exchange for such terminable permit. If such franchises or any
8 part thereof shall have expired by limitation of term, they shall,
9 nevertheless, by operation of law, be extended for a period of five
10 years from and after the date when such terminable permit shall
11 be held to be invalid. If the public utility involved shall have
12 taken such terminable permit as a new franchise and not in con-
13 nection with the surrender of an old franchise or franchises, it
14 shall, by operation of law, have the right to carry on its operations
15 as embraced by such terminable permit, for a period of five years
16 from the date when such terminable permit shall have been de-
17 clared invalid.

1 SECTION 38. (*Rules for Hearings*)—All hearings, investigations
2 and proceedings shall be governed by this act and by rules of
3 practice and procedure to be adopted by the commission.

Note: This is taken from Sec. 53 of the California Utility Act. The latter also adds the following:

“In the conduct thereof (of the hearings) the technical rules of evidence need not be applied. No informality in any hearing, investigation or proceedings or in the matter of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission.”

A similar provision is found in Alabama, Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Maryland, Missouri, New Hampshire, New Jersey, New York, North Dakota, Rhode Island, Utah, West Virginia, Wisconsin.

1 SECTION 39. (*Process*)—The commission and each commissioner
2 shall have power to issue subpoenas and all necessary processes in
3 proceedings pending before it in like manner and to the same
4 extent as courts of record, and such processes shall extend to all
5 parts of the state and may be served by any person authorized to
6 serve processes of courts of record.

1 SECTION 40. (*Witnesses*)—The commission and each of the
2 commissioners, for the purposes mentioned in this act, may ad-
3 minister oaths, and certify to official acts. In case of disobedience
4 on the part of any person or persons to comply with any lawful
5 order of the commission, or any commissioner, or any subpoena, or
6 of the refusal of any witness to testify to any matter regarding
7 which he may be interrogated lawfully, it shall be the duty of the
8 court of record of general jurisdiction of any county, or the judge
9 thereof, on application of the commission or of a commissioner, to
10 compel obedience by attachment proceedings for contempt as in
11 the case of disobedience of the requirements of a subpoena issued
12 from such court or a refusal to testify therein.

Note: This section is similar to Wis. St. 1919, Sec. 1797 m—53 and is substantially the same as the corresponding provisions in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington, West Virginia and Wyoming. A number of states including Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Maine, North Carolina, Oklahoma, Tennessee, Utah, and West Virginia give the commission power to punish for contempt directly without the necessity of applying to the court.

1 SECTION 41. (*Depositions*)—The commission or any com-
2 missioner or any party may, in any investigation or hearing before
3 the commission, cause the deposition of witnesses residing within
4 or without the state to be taken in the manner prescribed by law
5 for like depositions in civil actions in the.....courts of this
6 state.

1 SECTION 42. (*Privilege and Immunity*)—No person shall be
2 excused from testifying or from producing any book, document,
3 paper or account in any investigation or inquiry by or hearing
4 before the commission or any commissioner, when ordered to do so,
5 upon the ground that the testimony or evidence, book, document,
6 paper or account, required of him may tend to incriminate him or
7 subject him to penalty or forfeiture, but no person shall be prose-
8 cuted, punished or subjected to any forfeiture or penalty for or on
9 account of any act, transaction, matter or thing concerning which
10 he shall have been compelled under oath to testify or produce docu-
11 mentary evidence; provided, that no person so testifying shall be
12 exempt from prosecution or punishment for any perjury com-
13 mitted by him in his testimony.

Note: This section, by virtue of the broad definition of "person" contained in Sec. 13 (b), grants immunity to both natural and artificial persons. Such is the law in Alabama, Arkansas, Indiana, Iowa, Minnesota, Wyoming, Kansas, Montana, Nevada, Ohio and Wisconsin. On the other hand the laws of Illinois, Maryland, Michigan, Missouri, New Hampshire, New Jersey, New York, Oregon, Rhode Island and Pennsylvania do not extend such immunity to corporations, and the laws of Arizona, California, Colorado, Idaho, North Dakota and Utah provide that such immunity shall not be extended to any public utility.

1 SECTION 43. (*Certified Copies—Evidence*)—Copies of official
2 documents and orders filed or deposited according to law in the
3 office of the commission, certified by a commissioner or by the
4 secretary under the official seal of the commission to be true copies
5 of the original shall be evidence in like manner as the originals, in
6 all matters before the commission and in the courts of this state.

Note: Similar sections are found in the laws of Alabama, Arizona, Colorado, Idaho, Illinois, Michigan, New York, North Dakota, Pennsylvania, Wisconsin.

1 SECTION 44. (*Recording Orders*)—Every order, authorization or
2 certificate issued or approved by the commission under any pro-
3 visions of this act shall be in writing and entered on the records of
4 the commission. A certificate under the seal of the commission
5 that any such order, authorization or certificate has not been
6 modified, stayed, suspended or revoked, shall be received as evi-
7 dence in any proceedings as to such facts therein stated.

1 SECTION 45. (*Fees*)—Witnesses who are summoned before the
2 commission shall be paid the same fees and mileage that are paid
3 to witnesses in the courts of record of general jurisdiction in this
4 state. Witnesses whose depositions are taken pursuant to the
5 provisions of this act and the magistrate or other officer taking
6 the same shall severally be entitled to the same fees as are paid
7 for like services in courts of record of original jurisdiction in this
8 state.

1 SECTION 46. (*Inspection and Examination*)—The commission,
2 each commissioner and each person employed by the commission
3 for that purpose shall have the right at any and all times during
4 reasonable hours to inspect the accounts, books, papers and docu-
5 ments of any public utility pertinent to any lawful inquiry; pro-
6 vided, that any person other than a commissioner demanding such
7 inspection shall produce under the seal of the commission his
8 authority to make such inspection.

Note: There is a similar provision in practically all utility laws. Perhaps the phrase, "pertinent to any lawful inquiry," raises an unnecessary question of fact and should be omitted. Such phraseology does not appear in the acts of California, Wisconsin, and New York nor in most of the other acts. The commission in those states is simply given the power to examine all documents, books, papers, etc.

Some of the acts contain the following additional provision.

"And the commission, each commissioner and any officer of the commission or any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to the business and affairs of said public utility." Calif. G. L. (Deering) 1923, Act 6386, Sec. 58. Similar provisions are found in the acts of Colorado, Idaho, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

1 SECTION 47. (*Records Without the State*)—The commission may
2 require, by order served on any public utility in the manner pro-

3 vided herein for the service of orders, the production within
4 this state at such time and place as it may designate, of any books,
5 accounts, papers or records of the public utility relating to its
6 business or affairs within the state, pertinent to any lawful in-
7 quiry and kept by said public utility in any office or place without
8 this state, or, at its option, verified copies in lieu thereof, so that an
9 examination thereof may be made by the commission or under its
10 direction.

Note: Except for the phrase, "pertinent to any lawful inquiry," this section is similar to Calif. G. L. (Deering) 1923, Act, 6386, Sec. 59 (b) and substantially the same provision is in effect in Alabama, Arizona, Colorado, Idaho, Indiana, Michigan, Missouri, Montana, New Hampshire, Oregon, Utah, Wisconsin, and Wyoming.

1 SECTION 48. (*Complaints*)—Complaint may be made by the
2 commission on its own motion or by any corporation or person
3 having a legal interest in the subject matter of the complaint, in-
4 cluding any utility concerned, by petition or complaint in writing
5 setting forth any act or thing done or omitted to be done by any
6 public utility in violation, or claimed violation of any of the pro-
7 visions of law, or of any order or rule of the commission: provided,
8 that no complaint need be entertained by the commission where
9 the number of customers or prospective customers of such public
10 utility is less than twenty-five.

Note: The important feature in this section is the specification of persons who may file complaints. Most of the acts are rather liberal in this respect. The California Act, Sec. 60, provides that a complaint may be filed by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, or any public utility, but that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers, of such gas, electricity, water or telephone service.

Similar laws are found in Arizona, Colorado, Idaho, Missouri, Utah, Washington.

1 SECTION 49. (*Joinder of Complaints*)—All complaints growing
2 out of the same subject matter may be joined in one hearing, and
3 no motion shall be entertained against a complaint for misjoinder
4 of causes of action or misjoinder of parties; and in any review by
5 the courts of orders or decisions of the commission the same rule
6 shall apply with regard to the joinder of causes and parties as
7 herein provided.

1 SECTION 50. (*Service on Parties*)—Upon the filing of a com-
2 plaint, the commission shall cause a copy thereof to be served
3 upon the utility, or person complained of. Service in all hearings,
4 investigations and proceedings pending before the commission
5 may be made personally or by registered mail.

1 SECTION 51. (*Hearings*)—The commission shall fix the time
2 and place of hearing to be had upon the complaint if any is re-
3 quired and shall serve notice thereof, not less than 20 days before
4 the time set for such hearing, unless the commission shall find the
5 public necessity requires that such hearing be held at an earlier
6 date.

Note: Similar to part of Calif. G. L. (Deering) 1923, Act. 6386, Sec 69.
Similar provisions are found in the laws of Arizona, Colorado, Idaho, Mis-
souri, and Utah.

1 SECTION 52. (*Right to Hearing*)—At the time fixed for any hear-
2 ing before the commission or a commissioner, or the time to which
3 the same may have been continued, the complainant and the
4 corporation or person complained of shall be entitled to be heard
5 and to introduce evidence.

Note: The California Utility Act, Sec. 61, provides in addition that "such
corporations or persons as the commission may allow to intervene" may also
be heard and similar provisions appear in the laws of Arizona, Colorado,
Idaho, Illinois, Missouri, North Dakota, and Utah.

The Wisconsin statutes (1919) Sec. 1797 m—70, provide:

"In all trials, actions and proceedings arising under the provisions of
sections 1797 m—1 to 1797 m—109, inclusive, or growing out of the exercise
of the authority and powers granted herein to the commission, the burden
of proof shall be upon the party adverse to such commission or seeking to set
aside any determination, requirement, direction or order of said commission,
to show by clear and satisfactory evidence that the determination, require-
ment, direction or order of the commission complained of is unreasonable or
unlawful as the case may be."

Similar provisions may be found in N. Y. C. L. (Cahill) 1923, Ch. 49, Sec. 29, 66 (12) and 80 (10), and in the laws of Arizona, Indiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, Oregon, Pennsylvania, and Washington.

1 SECTION 53. (*Decisions*)—After the conclusion of the hearing,
2 the commission shall make and file its order, with its opinion, if
3 any, and its order shall be accompanied by findings in sufficient
4 detail to enable the court on appeal to determine the controverted
5 questions presented by the proceeding, and whether proper
6 weight was given to the evidence. A copy of such order certified
7 under the seal of the commission, shall be served upon the cor-
8 poration or person complained of, or its or his attorney. Said
9 order shall take effect and become operative 20 days after the
10 service thereof, unless otherwise provided, and shall continue in
11 force, either for a period which may be designated therein or until
12 changed or abrogated by the commission. If an order cannot, in
13 the judgment of the commission, be complied with within 20 days,
14 the commission may grant and prescribe such additional time as in
15 its judgment is reasonably necessary to comply with the order,
16 and may, on application and for good cause shown, extend the
17 time for compliance fixed in its order.

Note: This section is substantially similar to Calif. G. L. (Deering) 1923, Act 6386, Sec. 61 (a), except that the California Act does not contain the clause "its order shall be accompanied by findings in sufficient detail to enable the court on appeal to determine the controverted questions presented by the proceedings, and whether proper weight was given to the evidence." See note to section 57 for a discussion of the significance of this clause.

1 SECTION 54. (*Alteration of Orders*)—The commission may at
2 any time, upon notice to the public utility affected, and after
3 opportunity to be heard as provided in the case of complaints,
4 rescind, or amend any order or decision made by it. Any order
5 rescinding, or amending a prior order or decision shall, when
6 served upon the public utility affected, have the same effect as is
7 herein provided for original orders or decisions, but no such
8 order shall affect the legality or validity of any acts done by said
9 utility before service upon it of the notice of such change.

Note: Similar to Calif. G. L. (Deering) 1923, Act 6386, Sec. 64 as far as the words "but no such order." A similar provision is found in the statutes of

Alabama, Arizona, Colorado, Idaho, Illinois, Indiana, Maine, Michigan, Missouri, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Pennsylvania, Rhode Island, Utah, Washington, Wisconsin, and West Virginia.

1 SECTION 55. (*Record of Proceedings*)—A full and complete record
2 shall be kept of all proceedings had before the commission or any
3 commissioner on any formal hearing, and all testimony shall be
4 taken down by a reporter appointed by the commission, and the
5 parties shall be entitled to be heard in person or by attorney.

1 SECTION 56. (*Rehearing*)—After any order or decision has been
2 made by the commission, any party to the action or proceeding
3 may apply for a rehearing in respect of any matters determined in
4 said action or proceeding and specified in the application for re-
5 hearing, and the commission may grant and hold such rehearing on
6 said matters, if in its judgment sufficient reason therefor be
7 made to appear.

Note: Same as Calif. G. L. (Deering) 1923 Act 6386 Sec. 66. Similar sections are found in the laws of Alabama, Arizona, Arkansas, Colorado, Idaho, Illinois, Maryland, Missouri, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Washington and Wyoming.

 The California Act further provides

 “No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless such corporation or person shall have made before the effective date of said order or decision, application to the commission for a rehearing. Such application shall set forth specifically the ground or grounds on which the applicant considers said decision or order to be unlawful. No corporation or person shall in any court urge or rely on any ground not so set forth in said application.” Similar provisions are found in the laws of Arizona, Arkansas, Colorado, Illinois, Missouri, New Hampshire, Ohio, South Dakota, and Utah.

1 SECTION 57. (*Review*)—Any party to a proceeding before a
2 commission may apply to the _____ court of this state for a
3 writ of certiorari to review any order entered by the commission
4 by filing in said court within thirty (30) days after the entry of
5 such order a petition against the commission specifying the
6 matters in the proceeding before the commission or in its order,
7 relied upon to support the contention that the order complained
8 against is erroneous or unlawful and which shall be relied upon on

9 said review. Whereupon the court shall issue its writ commanding
10 the commission within thirty (30) days to certify the record in the
11 case to said court. The case shall be heard in said court upon said
12 record and specifications. The court may affirm the order under
13 review or set the same aside in whole or in part.

Note: This section involves another matter of considerable importance on which there is much difference of opinion and which should be considered by the Conference with some care. It is the matter of the conclusiveness of the findings of the commission.

Section 53 of the Uniform Act provides that the commission shall make "findings in sufficient detail to enable the court on appeal to determine the controverted questions presented by the proceeding and whether proper weight was given to the evidence." No mention is made of the weight to be accorded the findings of the commission. In other words the review is to be virtually a trial *de novo* but on the same evidence as that presented to the commission. All controverted questions not only of law but also of fact are open for examination and decision. Possibly although the statute does not require it the court would apply the same rule of presumption of correctness to the commission findings as would be applied to the findings of the trial court in an appeal in an equity case. The statutes of Missouri are similar to the Uniform Act on this point. They make no provision whatsoever concerning the conclusiveness of the commission finding.

On the other hand the California, Maine and Utah statutes would make commission findings absolutely final as to all questions of fact even including questions of reasonableness and discrimination and would leave only matters of law for review. Calif. G. L. (Deering) 1923, Act 6386 Sec. 67 reads in part as follows:

"The review shall not be extended further than to determine whether the commission has regularly pursued its authority including a determination of whether the order or decision under review violates any right of the petitioner under the Constitution of the United States or of the State of California. The findings and conclusions of the commission on questions of fact shall be final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission on reasonableness and discrimination."

The Colorado laws (Comp. Laws 1921, Sec. 2961) make the findings and conclusions of the commission on disputed questions of fact final but this law does not provide as does the California law that such facts shall include ultimate facts and conclusions as to reasonableness and discrimination.

Of course if the findings of the commission on questions of fact violate constitutional rights, these findings are subject to review and no statutory enactment can provide otherwise. In rate cases when the question of confiscation is raised the Supreme Court has held that the parties have always the

right to the independent judgment of the court on both the law and the facts. See *Ohio Valley Water Company v. Ben Avon Borough*, 253 U. S. 287, (1920); *Bluefield Water Works v. Public Service Comm.*, 262 U. S. 679 (1923); *Ohio Utilities Co. v. Public Utilities Comm.*, . . . U. S. . . ., 69 L. ed. 293. However the commission is called upon to decide many questions of fact that do not involve confiscation, and it is possible that as to such matters there is no absolute right to review.

Still a third class of utility laws takes a position somewhere between that of the Uniform Act and that of the California law and provides expressly that the findings of the commission on questions of fact shall be deemed *prima facie* just, reasonable and correct. See laws of Alabama, Illinois, New Hampshire and Washington.

1 SECTION 58. (*Record on Review*)—In case of any action to re-
2 view any order of the commission, a transcript of all testimony to-
3 gether with all exhibits or copies thereof introduced, and of the
4 pleadings, record and proceedings in the cause, including all orders,
5 findings and opinions, shall constitute the record of the commission:
6 provided, that on review of an order of the commission, the parties
7 and the commission may stipulate that a certain question or
8 questions alone and a specified portion only of the evidence shall
9 be certified to the court for its judgment, whereupon such stipu-
10 lation and the question or questions and the evidence therein
11 specified shall constitute the record on review.

Note: Similar to Calif. G. L. (Deering) 1923 Act 6386 Sec. 61. The record is limited to the proceedings before the commission. No new evidence may be introduced. The same is true in South Carolina, Washington, Colorado, Illinois, Idaho, Missouri, North Dakota, Oklahoma, South Dakota and Utah.

On the other hand in Wisconsin, Louisiana, New Hampshire, Pennsylvania, Maryland, Michigan, Nevada, Oregon, Rhode Island, Indiana and Montana new evidence may be introduced upon review but provision is made for submitting this new evidence to the commission to give it an opportunity to rescind or modify the order appealed from. See Wis. St. 1919, Sec. 1797 m—67.

1 SECTION 59. (*Stay of Orders*)—The pendency of an action to
2 review shall not of itself stay or suspend the operation of the order
3 of the commission, but during the pendency of such writ, the
4 ————— court in its discretion may stay or suspend, in whole
5 or in part, the operation of the commission's order on such terms
6 as it deems just. Any party shall have the right to secure from

7 the court in which a review of the order of the commission is
8 sought an order suspending or staying the operation of an order of
9 the commission, pending a review of such order, by adequately
10 securing the other parties against loss due to the delay in the en-
11 forcement of the order, in case the order under review is affirmed,
12 the security to take such form as shall be ordered by the court
13 granting the stay or suspension.

Note: Most statutes provide for notice to the commission of the application for stay, and an opportunity to be heard thereon. This is true in Alabama, Indiana, Kansas, Louisiana, Maryland, Minnesota, Nebraska, Nevada, New York, Pennsylvania, Wyoming, California, Colorado, Idaho, Illinois, Missouri, Utah, Washington, Michigan, Montana, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Virginia and Wisconsin.

1 SECTION 60. (*Preference on Calendar*)—All actions and pro-
2 ceedings under this act, and all actions or proceedings to which the
3 commission or the people of the State of may be
4 parties, and in which any question arises under this act, or under or
5 concerning any order or decision of the commission, shall be pre-
6 ferred over all other civil causes except election causes and shall
7 be heard and determined in preference to all other civil business
8 except election causes, irrespective of position on the calendar.

Note: Similar to Calif. G. L. (Deering) 1923, Act 6386, Sec. 69 and N. Y. C. L. (Cahill) 1923, Ch. 49, Sec. 21. Similar provisions appear in the laws of Arizona, Idaho, Maryland, Missouri, New Hampshire, New York and Utah.

1 SECTION 61. (*Penalties Cumulative*)—All penalties accruing
2 under this act shall be cumulative, and a suit for the recovery of one
3 penalty shall not be a bar to or affect the recovery of any other
4 penalty or forfeiture or be a bar to any criminal prosecution against
5 any public utility or any officer, director, agent or employee thereof
6 or any other corporation or person.

Note: Similar to Calif. G. L. (Deering) 1923, Act 6386, Sec. 74 b.

1 SECTION 62. (*Summary Proceedings*)—Whenever the com-
2 mission shall be of the opinion that any public utility is failing or
3 omitting or about to fail or omit to do anything required of it by
4 law or by any order of the commission, or is doing anything or
5 about to do anything, or permitting anything or about to permit
6 anything to be done, contrary to or in violation of law or of any
7 order of the commission, it may direct the attorney general to

8 commence an action or proceeding in the court in and for the
9 county, or city and county, in which the cause or some part thereof
10 arose, or in which the corporation complained of, if any, has its
11 principal place of business, or in which the person, if any, com-
12 plained of, resides, in the name of the people of the State of
13 for the purpose of having such violations or threatened violations
14 stopped and prevented, either by mandamus or injunction. The
15 attorney general shall thereupon begin such action or proceeding by
16 petition to such court, alleging the violation or threatened vio-
17 lation complained of, and praying for appropriate relief by way of
18 mandamus or injunction. It shall thereupon be the duty of the
19 court to specify a time, not exceeding twenty (20) days after the
20 service of the copy of the petition, within which the public utility
21 complained of must answer the petition, and in the meantime said
22 public utility may for good cause shown be restrained. In case of
23 default, the court shall immediately inquire into the facts and cir-
24 cumstances of the case. Such corporations or persons as the court
25 may deem necessary or proper to be joined as parties, in order to
26 make its judgment, order or writ effective, may be joined as
27 parties. The final judgment in any such action or proceeding
28 shall either dismiss the action or proceeding or direct that the
29 writ of mandamus or injunction issue or be made permanent as
30 prayed for in the petition, or in such modified or other form as will
31 afford appropriate relief. An appeal may be taken to the
32 court from such final judgment in the same manner and with the
33 same effect, subject to the provisions of this act, as appeals are
34 taken from the judgments of the court in other actions for
35 mandamus or injunction.

Note: Almost the same as N. Y. C. L. (Cahill) 1923, Ch. 49, Sec. 74 and Calif. G. L. (Deering) 1923, Act 6386, Sec. 75. Similar provisions appear in the laws of Arizona, Colorado, Idaho, Missouri, Rhode Island, Utah, and Washington.

1 SECTION 63. (*Violations*)—Any person or corporation which
2 violates any provision of this act, or which fails, omits or neglects
3 to obey, observe or comply with any lawful order, or any part or
4 provision thereof, of the commission is subject to a penalty of not
5 less than hundred dollars nor more than
6 thousand dollars for each and every offense.

Note: Similar provisions appear in the laws of Arizona, California, Colorado, Idaho, Rhode Island, and Utah.

1 SECTION 64. (*Violation by Officers and Employees*)—In construing and enforcing the provisions of this act relating to penalties, the act, omission or failure of any officer, agent or employee of any corporation or person acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission or failure of such corporation or person.

Note: Similar provisions appear in the laws of Arizona, Colorado, Idaho, Maryland, Missouri, North Dakota, Rhode Island, and Utah.

1 SECTION 65. (*Continuing Violation*)—Every violation of the provisions of this act or of any lawful order of the commission, or any part or portion thereof by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

Note: Similar provisions appear in the laws of Arizona, Colorado, Idaho, Missouri, North Dakota, Rhode Island, and Utah.

1 SECTION 66. (*Suits for Penalties*)—Actions to recover penalties under this act shall be brought in the name of the people of the State of.....in the.....court.

1 SECTION 67. (*Interstate Commerce*)—Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this Union, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

1 SECTION 68. (*Constitutionality*)—If any part of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares, that it would have passed this act, and each part thereof, irrespective of the fact that any part be declared unconstitutional.

COMMITTEE RECOMMENDATIONS TO TAKE PLACE OF SECTIONS 57 AND 58 AS
PRINTED IN FIRST TENTATIVE DRAFT OF A UNIFORM
PUBLIC UTILITIES ACT

SECTION 57: (Appeal)

Any interested party to a proceeding before the Commission may appeal to the . . . Court (the highest court of the state of original jurisdiction) from any order entered by the Commission by filing in the office of the Commission within thirty (30) days after the entry of such order a notice of appeal, which notice shall specify the matters in the proceedings before the Commission or in its order relied upon to support the contention that the order appealed from is erroneous or unlawful and which shall be relied upon on said appeal, whereupon the Commission shall, within thirty (30) days from the filing of such notice, certify the record in said case as defined in Section 58 hereof to said court. The case shall be heard in said court upon such record and specifications. The court may confirm the order under appeal or set the same aside, in whole or in part. Upon said appeal, findings of fact of the Commission shall be prima facie evidence of the matters therein stated.

[Appeals from judgments or orders entered by the said . . . Court upon the trial of said proceedings may be taken by any party thereto directly to the (Court of Last Resort) within (60) days after the rendition of the order or judgment appealed from. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the (Court of Last Resort).]

SECTION 58: (Record on Appeal)

In the case of any appeal from any order of the Commission, a transcript of all testimony, together with all exhibits or copies thereof introduced, and of the pleadings, record, and proceedings in the cause, including all orders, findings and opinions, with the notice of appeal and accompanying specifications, shall constitute the record of the Commission. Provided that upon an appeal from an order of the Commission, the parties and the Commission may stipulate that a certain question or questions alone, and a specified portion only of the evidence shall be certified to the Court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on appeal.

REPORT OF COMMITTEE ON UNIFORM DRUG ACT
*To the National Conference of Commissioners on Uniform State
Laws:*

Your committee has had under consideration the drafting of a Uniform Drug Act and submits herewith a first tentative draft thereof.

The American Medical Association's committee on Narcotic Drugs, and Medical, Drug and other organizations, are desirous of having approved a uniform Act.

Dr. William C. Woodward, Executive Secretary of the Bureau of Legal Medicine and Legislation of the American Medical Association, submitted certain suggestions concerning a proposed Act and in February last two members of the committee had a conference with Dr. Woodward.

The zeal of the American Medical Association in urging the adoption of the Uniform State Law cannot be sufficiently praised and we urge earnest co-operation between that Association and our Conference.

The Federal Act and the laws of several of the States have been considered.

It occurs to your committee that the New York Act should be taken as the basis for framing a Uniform Act, and the draft submitted herewith is largely a copy of the New York Act.

The New York Act was drafted in accordance with a plan agreed upon during 1922 by the Associations hereinbefore mentioned.

The New York Act, and the tentative draft of a uniform Act submitted herewith, are designed generally along the lines of the Federal Narcotic Drug Law, known as the Harrison Act, with certain changes to meet local State conditions. The theory of designing a Uniform State Law generally along the lines of the Federal Law is, in the opinion of your committee, sound in principle. A thorough and detailed study of all of the elements which enter into the subject are indispensable to an effective system from the standpoint of public welfare. Your committee is informed that divergent State Laws are reflected in adjoining States through traffic across their borders.

The formulation of a Uniform State Law must necessarily be subject to the processes of our Conference, and members of your committee entertain the opinion that some years may elapse before a Uniform State Law, deemed acceptable to the commissioners representing the jurisdictions of the Conference, can as a practical matter be formulated for adoption.

In the draft submitted herewith there is no provision for the supervision and control of the addict. It will be contended that a failure to provide adequately for the care and supervision of such as sincerely desire to be cured causes much of the present trouble. Your committee is of the opinion that it is unwise to incorporate in a proposed Uniform Act provisions for the supervision and control of the addict. Any State desiring so to do can provide for same by a separate Act.

Your committee in conclusion submits a First Tentative Draft and is desirous of obtaining the views of the commissioners as to the general phases of the subject and the plan upon which the New York Act and the draft herewith are based.

Dated: June 30, 1925.

Respectfully submitted,

CHARLES R. HOLLINGSWORTH, *Chairman*

WALTER C. CLEPHANE

CHRISTOPHER L. AVERY

ERNST FREUND

ARTHUR W. DAVIS

NELLIS E. CORTHELL

ADOLPH G. WOLF

Committee

First Tentative Draft

of

AN ACT CONCERNING THE CONTROL OF NARCOTIC
DRUGS AND TO MAKE UNIFORM THE LAW
RELATING THERETO

Be it enacted, etc.,

1 SECTION 1. DEFINITIONS. The following words and phrases as
2 used in this Act shall have the following meaning, unless the con-
3 text otherwise requires:

4 (1) "Person" includes any corporation, association, co-partner-
5 ship or one or more individuals.

6 (2) "Physician" means a licensed practitioner of medicine as de-
7 fined by article eight of this Act.

8 (3) "Apothecary" means a licensed pharmacist or druggist as
9 defined by article eleven of this Act.

10 (4) "Dentist" means a licensed practitioner of dentistry as de-
11 fined by article nine of this Act.

12 (5) "Veterinarian" means a licensed practitioner of veterinary
13 medicine as defined by article ten of this Act.

14 (6) "Medicine" means a drug or preparation of drugs in suitable
15 form for use as remedial or curative substance.

16 (7) "Sale" includes barter, exchange or giving away, or offering
17 therefor and each such transaction made by any person whether as
18 principal, proprietor, agent, servant or employee.

19 (8) "Dispense" includes distribute, leave with, give away, dis-
20 pose of, and deliver to a person or to his agent to be delivered to
21 him.

22 (9) "Administer" means only administration by a person author-
23 ized to administer habit forming drugs.

24 (10) "Coco leaves" includes coco leaves, cocaine, or any com-
25 pound, manufacture, sale, derivative or preparation thereof, in-
26 cluding alpha or beta eucaine, or any of their salts or any synthetic
27 substitute of any of them, identical in chemical composition, but
28 shall not include decocanized coca leaves, or preparations made
29 therefrom or other preparations of coca leaves which do not con-
30 tain cocaine.

31 (11) "Opium" includes opium, morphine, codeine, diacetyl-

32 morphine heroin or any compound, manufacture, salt, deriva-
33 tive or preparation of any of them or any synthetic substitute of
34 any of them identical in chemical composition, but not apomor-
35 phine and its salts.

36 (12) "Cannabis indica" or "cannabis sativa" shall include any
37 compound, manufacture, salt, derivative or preparation thereof
38 and any synthetic substitute for any of them identical in chemical
39 composition.

40 (13) "Habit forming drugs" shall mean coca leaves, opium,
41 cannabis indica or cannabis sativa.

42 (14) "Manufacturer" means a person who by compounding,
43 mixing, or other process of manufacture, produces or prepares
44 habit forming drugs for sale on written orders and does not in-
45 clude an apothecary who compounds habit forming drugs to be
46 sold or dispensed on prescription.

47 (15) "Wholesaler" means a person who supplies habit forming
48 drugs on written orders.

49 (16) "The Harrison Act" means the act of congress, entitled
50 "An act to provide for the registration of, with collectors of in-
51 ternal revenue, and to impose a special tax upon all persons who
52 produce, import, manufacture, compound, deal in, dispense, sell,
53 distribute, or give away opium or coca leaves, their salts, deriva-
54 tives or preparations and for other purposes," approved December
55 seventeenth, nineteen hundred and fourteen, as heretofore or here-
56 after amended.

1 SECTION 2. ACTS DANGEROUS TO PUBLIC HEALTH. Any un-
2 authorized possession, control over, sale, distribution, prescribing,
3 administering or dispensing of habit forming drugs is hereby de-
4 clared to be dangerous to the public health, and a menace to the
5 public welfare.

1 SECTION 3. ACTS PROHIBITED. It shall be unlawful for any
2 person to possess, have under his control, sell, distribute, admin-
3 ister, dispense, or prescribe any habit forming drug except as pro-
4 vided in this Act.

1 SECTION 4. SALE ON WRITTEN ORDERS.

2 (1) By whom and to whom sold. A manufacturer, wholesaler, or
3 apothecary may sell or distribute habit forming drugs only to any
4 of the following persons and upon his written order:

5 (a) To a manufacturer, wholesaler or apothecary.

6 (b) To a physician, dentist or veterinarian.

7 (c) To a public or private hospital.

8 (d) To a hospital or institution licensed for the treatment of
9 drug addiction.

10 (e) To a person in charge of a laboratory where habit forming
11 drugs are used for scientific or medical research, but only for use in
12 such laboratory.

13 (f) To a person in the employ of the United States or of this
14 state or of any political subdivision thereof purchasing or re-
15 ceiving the drug by reason of his official duties.

16 (g) To a captain or proper officer of a ship upon which no regu-
17 lar physician is employed, for the actual medical needs of the
18 officers and crew when not in port. Provided, however, that both
19 parties to the transaction in each of the above cases are registered
20 under the Harrison act if required by such act to be so registered.

21 (2) Order blanks. A written order for the supply of any habit
22 forming drug shall be signed in duplicate by the person giving it or
23 by his duly authorized agent, one duplicate of which shall be
24 presented to the person who sells or distributes such habit forming
25 drugs and in the event of his acceptance of such order, each party
26 shall preserve his duplicate of such order for a period of two years
27 in such a way as to be readily accessible for inspection and it shall
28 be subject to inspection by any public officer or employee engaged
29 in the enforcement of this Act. Provided, however, that it shall
30 be deemed a compliance with this sub-section if the person giving
31 the order shall have complied with the provisions of the Harrison
32 act respecting the requirements governing order blanks under said
33 act.

34 (3) Possession lawful. Possession of or control over habit form-
35 ing drugs, obtained as provided in this section, shall be lawful if in
36 the regular course of business, occupation, profession, employment
37 or duty of the possessor and in an amount necessary therefor.

38 (4) This section shall not apply to the supply of habit forming
39 drugs on prescription or administered or dispensed by a physician,
40 dentist, or veterinarian.

1 SECTION 5. PREPARATIONS AND REMEDIES EXEMPTED. The pro-
2 visions of this Act shall not apply to preparations or remedies

3 which do not contain more than two grains of opium, or more than
4 one-fourth of a grain of morphine, or more than one-eighth of a
5 grain of heroin or more than one grain of codeine, or any salt or
6 derivative of any of them in one fluid ounce, or, if a solid or semi-
7 solid preparation, in one avoirdupois ounce; or to liniments,
8 ointments, or other preparations which are prepared for external
9 use only, except liniments, ointments, and other preparations
10 which contain cocaine or any of its salts or alpha or beta eucaine or
11 any of their salts or any synthetic substitute for them; provided
12 that such remedies and preparations are sold, distributed, dis-
13 pensed, or possessed as medicines and not for the purpose of evad-
14 ing the intentions and provisions of this Act.

1 SECTION 6. PROFESSIONAL USE OF HABIT FORMING DRUGS.

2 (1) Veterinarians. A veterinarian may prescribe, administer or
3 dispense habit forming drugs in good faith and in the course of his
4 professional practice only, and not for use by a human being.

5 (2) Dentists. A dentist, in good faith and in the course of his
6 professional practice only, may administer or dispense habit form-
7 ing drugs to patients under his immediate treatment.

8 (3) Physicians. A physician, in good faith and in the course of
9 his professional practice only, may prescribe, administer, or dis-
10 pense habit forming drugs.

1 SECTION 7. PRESCRIPTION. Any apothecary may sell or dis-
2 pense habit forming drugs to any individual upon a written pre-
3 scription of a physician, or veterinarian, dated and signed on the
4 day when issued and bearing the full name and address of the
5 patient or of the owner of the animal for which the drug is dispensed
6 and the name, address and registry number of the practitioner un-
7 der the Harrison act if he is required by it to be so registered. The
8 person filling the prescription must write the date of filling and his
9 own signature upon the face of the prescription, and the prescription
10 must be retained on file by the apothecary filling it for two years, so
11 as to be readily accessible for inspection and it shall be subject to
12 inspection by any public officer or employee engaged in the en-
13 forcement of this article. The prescription shall not be refilled.

1 SECTION 8. RECORD TO BE KEPT.

2 (1) Physicians, dentists, veterinarians. Every physician, den-
3 tist and veterinarian shall keep a record of all habit forming drugs

4 administered or dispensed by him, except such as may be admin-
5 istered or dispensed to a patient upon whom he shall personally
6 attend, showing the amount administered or dispensed.

7 (2) Manufacturers and wholesalers. Manufacturers and whole-
8 salers shall keep a record of the habit forming drugs received and
9 disposed of by them.

10 (3) Exempted preparations and remedies. Every manufacturer
11 of exempted preparations or remedies shall keep a record of the
12 amount of habit forming drugs received and of all sales of exempted
13 preparations or remedies and every dealer therein shall keep a
14 record of all sales of exempted preparations and remedies.

15 (4) Form and preservation. Every such record shall be kept
16 for a period of two years from the date of the transaction recorded,
17 and a record required by or under the Harrison act, containing
18 substantially the same information, shall be a compliance with
19 this section. All records required by this section shall be readily
20 accessible for inspection and shall be open to inspection by the
21 proper authorities.

1 SECTION 9. LABELS. Whenever an apothecary pursuant to a
2 written prescription shall sell or dispense habit forming drugs or
3 whenever a physician, dentist, or veterinarian shall dispense any
4 of such drugs, he shall securely affix to the container of such drug a
5 label stating in legible English the name and address of the
6 physician or veterinarian prescribing or dispensing and of the
7 apothecary or dentist dispensing, the date and the name and
8 address of the person for whom or the owner of the animal for
9 which the drug is dispensed.

1 SECTION 10. AUTHORIZED POSSESSION OF DRUGS BY INDIVIDUAL. A person to whom or for whose use any habit forming
2 drug has been sold or dispensed by an apothecary, physician or
3 dentist or the owner of an animal for which any such drug has been
4 prescribed or dispensed by a veterinarian, may lawfully possess it
5 in the container delivered to him by the person selling or dis-
6 pensing same.

1 SECTION 11. PHYSICAL EXAMINATION REQUIRED. A physician,
2 dentist or veterinarian shall not administer, dispense or prescribe
3 any habit forming drugs except after a physical examination of the
4 person for whom or the animal for which the drug is intended.

1 SECTION 12. INSTRUMENTS OF INJECTION OF HABIT FORMING
2 DRUGS. No person except a manufacturer or a wholesale or retail
3 dealer in surgical instruments, apothecary, physician, dentist,
4 veterinarian, nurse or interne shall at any time have or possess a
5 hypodermic syringe or needle or any instrument or implement
6 adapted for the use of habit forming drugs by subcutaneous injec-
7 tions and which is possessed for the purpose of administering habit
8 forming drugs unless such possession be authorized by the certi-
9 ficate of a physician issued within the period of one year prior
10 thereto.

1 SECTION 13. EXEMPTION FROM RESTRICTIONS.

2 (1) Common carriers, employees, public officers. The provisions
3 of this Act restricting the possessing or having under control of
4 habit forming drugs or instruments of injection thereof shall not
5 apply to common carriers or warehousemen or their employees
6 engaged in lawful transportation or storage of such drugs, nor to
7 public officers or employees while engaged in the performance of
8 their official duties, nor to temporary incidental possession by em-
9 ployees or agents of persons lawfully entitled to possession, or
10 by persons whose possession is for the purpose of aiding public
11 officers in the performance of their official duties.

12 (2) Interstate commerce. This article shall not apply to acts
13 done, or to habit forming drugs possessed in the course of interstate
14 or foreign commerce.

1 SECTION 14. DRUGS DELIVERED TO STATE BOARD, ETC. All
2 drugs which have been seized and judicially determined to have
3 been unlawfully possessed or the title to which has ceased and
4 which have come into the hands of a peace officer shall, upon the
5 direction of a court or magistrate, be delivered to the state . . .
6 unless destroyed according to law or by regulation of the state. . .
7 The . . . may receive drugs surrendered to it subject to the rights
8 of any person lawfully entitled thereto, and all drugs in final
9 possession of the . . . may be disposed of or destroyed under its
10 direction. The . . . shall keep a record of the receipt and disposi-
11 tion thereof.

1 SECTION 15. NOTICE OF CONVICTION OF PROFESSIONAL MEN
2 SENT TO LICENSING BOARD.

3 (1) On conviction of any physician, dentist, veterinarian or

4 apothecary for wilful violation of any of the provisions of this
5 article, a copy of the sentence and of the opinion of the court or
6 magistrate if any be filed, shall be sent by the clerk of the court or
7 by the magistrate to the board or officer having power to suspend
8 or revoke the license or registration of the person convicted, for
9 such action as the board or officer deems proper.

10 (2) At the request of such board or officer, the clerk or magistrate
11 shall send to such board or officer a transcript of the record or of the
12 proceedings in a court not of record, and such portion of the evi-
13 dence as may be requested.

1 SECTION 16. RECORDS CONFIDENTIAL. Prescriptions, orders or
2 records required under this article shall not be open to inspection
3 nor shall any information contained therein be divulged except for
4 the purpose of enforcing the laws of this state or the Harrison act,
5 or on the direction of the department of state police or of the police
6 department of any city to an officer of another state, for the pur-
7 pose of enforcing the law of such state.

1 SECTION 17. FRAUD OR DECEIT. Any fraud, deceit, misrep-
2 resentation, subterfuge, concealment of a material fact or the use
3 of a false name or the giving of a false address in obtaining treat-
4 ment in the course of which habit forming drugs shall be prescribed
5 or dispensed or in obtaining any supply of such drugs shall con-
6 stitute a violation of the provisions of this Act and shall not be
7 deemed a privileged communication. The wilful making of any
8 false statement in any prescription, order, report, or record re-
9 quired under this Act shall constitute a violation of this Act.
10 No person shall for the purpose of obtaining any habit forming drug
11 falsely assume the title or represent himself to be a manufacturer,
12 wholesaler, apothecary, physician, dentist, veterinarian, or make
13 or utter any false or forged order or prescription for or label for a
14 container of or for habit forming drugs, or affix such label, or alter,
15 deface or remove any such label.

1 SECTION 18. DUTIES OF STATE . . . WITH RESPECT TO LABORA-
2 TORIES.

3 (1) The State . . . shall establish and maintain one or more
4 laboratories with such expert assistants and such facilities as are
5 necessary for routine examinations and analyses, and for original
6 investigations and research in matters affecting public health. It

7 shall have authority to make, at the expense of the state, such
8 examinations and analyses at the request of any health officer or of
9 any physician. It may enter into contracts with laboratories in
10 localities accessible to the various portions of the state for the
11 prompt examination of specimens received from local health
12 officers or physicians and for the immediate report thereon, at the
13 expense of the state; provided that all such laboratories shall con-
14 form to standards of efficiency established by the State . . . , and
15 that no obligation shall be incurred in excess of the sums available
16 therefor.

17 (2) There shall be at least one laboratory analyst who shall
18 examine and analyze all habit-forming drugs as defined in this
19 Act, submitted to him by an official of the state or of any
20 political subdivision thereof, engaged in the enforcement of the
21 narcotic drug control law or any law of similar purpose and who
22 shall be detailed by the State . . . to aid any such official of the
23 state and to give evidence in any proceeding on behalf of the state
24 in connection with such enforcement.

1 SECTION 19. EXCEPTIONS AND EXEMPTIONS NOT REQUIRED TO
2 BE NEGATIVED. In any complaint, information, indictment, or
3 other writ or in any action or proceeding brought for the enforce-
4 ment of any of the provisions of this article, it shall not be neces-
5 sary to negative an exception or exemption, and the burden of
6 offering proof of any such exception or exemption shall be upon the
7 defendant.

1 SECTION 20. ENFORCEMENT. This Act shall be enforced by
2 the judicial and police authorities of the state and the political
3 subdivisions thereof engaged in the enforcement of the law. Such
4 authorities and their agents shall have access at all times to all
5 orders, prescriptions or records to be kept under this Act.

1 SECTION 21. POSSESSION AT TIME ARTICLE GOES INTO EFFECT.
2 Habit forming drugs lawfully in the possession or under control of
3 any person at the time this article goes into effect, may be possessed
4 by him with the same effect as if obtained lawfully under this
5 article.

1 SECTION 22. PENALTIES. A violation of any provision of this
2 act shall constitute a misdemeanor.

1 SECTION 23. CONSTITUTIONALITY. If any provision of this
2 Act is declared unconstitutional or the application thereof to
3 any person or circumstances is held invalid, the validity of the
4 remainder of the Act and the application thereof to other per-
5 sons and circumstances shall not be affected thereby.

1 SECTION 24. INTERPRETATION. This Act shall be so inter-
2 preted as to effectuate its general purpose, to make uniform the
3 laws of those states which enact it.

1 SECTION 25. INCONSISTENT LAWS REPEALED. All Acts or parts
2 of Acts inconsistent with this Act are hereby repealed.

1 SECTION 26. TIME OF TAKING EFFECT. This Act shall take
2 effect on the day of192.....

1 SECTION 27. NAME OF ACT. This Act may be cited as the Uni-
2 form Drug Control Act.

REPORT OF COMMITTEE ON CHILD LABOR LAW

To the National Conference of Commissioners on Uniform State Laws:

Experience in the operation of Child Labor Laws in the various states since the approval by the Conference of the draft of Uniform Child Labor Law adopted in 1911, has led the Executive Committee to believe that a new draft should be prepared in the light of the investigations made of the practical effect of such legislation. These investigations have been summarized in a very clarifying way by the Children's Bureau of the United States Department of Labor as well as by various private organizations throughout the country. Information thus gathered has been very helpful to this committee in undertaking the revision of such proposed legislation for presentation to the Conference.

In submitting the attached draft your committee has deemed it wise to indicate in this report the general scope and features which will be found embodied in it.

As redrafted, it is proposed to apply the law to agricultural labor as well as to the classes of industry heretofore covered. Some of the considerations inducing the committee to include this branch of industry are suggested in the note appended to section 1 of the accompanying act. It should be stated, however, that service performed by a minor in or about the residence of his family or on the farm connected with such residence is not embraced within the prohibitions of the act.

The minimum age for employment in gainful occupations is fixed at fourteen (14), except in street trades for which special provision is made. Children between fourteen and eighteen years of age are permitted to engage in gainful occupations only after receiving employment certificates, and even then such labor is prohibited for more than eight hours in any one day, more than 48 hours in any one week, and more than six days in any one week, and, except in agricultural and domestic pursuits, early in the morning and late in the evening.

Employment certificates may be issued only upon the exhibition of evidence as to age, schooling, physical fitness, and prospective employment.

Rather detailed requirements are inserted with regard to the evidence of age which will be considered sufficient by the issuing officer. This detail practical experience has demonstrated is necessary in order to prevent evasion of the law.

The evidence of schooling shall consist wherever feasible of a school record. In any event if the employment is to prevent the child's school attendance, the issuing officer must be satisfied that the child has completed a course equivalent to that given in the eighth grade.

No provision has been made for the employment of minors mentally incompetent, in such a way as to prevent their regular attendance at school, who have not received the equivalent of an eighth grade education. The study which has been made of this subject tends to the conclusion that instead of permitting such children to be thrust into industry prior to the age of eighteen, and thus be deprived of all opportunity of educational improvement, our educational systems should be so modified as to provide for the systematic training of such persons.

The evidence of physical fitness is to be based upon an examination by a public health officer.

The evidence of prospective employment is insisted upon in order that children may not be tempted to obtain certificates and thus neglect their education, in the vain hope of obtaining employment, and more particularly in order that the issuing officer may know that the employment sought is neither illegal nor one for which the child is physically or mentally unfit.

The issuing officers are to be appointed by some central State Board which is given power to make appropriate rules and regulations and to compile the proper forms for use in carrying out the provisions of the law. Some system of centralized direction and supervision over the issuance of labor permits seems to be one of the prime requisites for the adequate enforcement of any child labor law.

In a few of our states no permits to labor may be issued unless the condition of the child or of the family is deemed necessitous. Your committee has not deemed it wise to recommend this feature. It believes that many children who are physically and mentally qualified may better their condition by a judicious amount of gainful occupation irrespective of any financial necessity therefor.

The act contains certain classifications of employments as being prohibited to minors within the ages therein designated. This classification is not insisted upon as being either theoretically or practically the best that can be suggested. It has been submitted by the U. S. Labor Bureau in substantially the form embraced in this form of act as being probably as good as any which can be formulated. No sufficiently careful study has been made by any competent authority on this subject to enable your committee to submit this classification with any great degree of confidence. Your committee believes, however, that until some better list of employments can be sketched out as being poorly-adapted to young children, it is safe for the Conference to approve it.

For street trades minors under sixteen must be provided with work permits and badges.

Penalties are, of course, inserted for violations of the act.

The act differs from that approved by the Conference in 1911, principally in the following particulars:

Agricultural pursuits are included in the prohibited occupations.

The presence of minors in the places where the prohibited occupations are carried on is made *prima facie* evidence of employment therein.

The name and address of the prospective employer and the specific occupation in which the children are to engage must be stated in the employment certificate.

The parent, guardian or custodian, must attend before the issuing officer before the permit can be issued.

More satisfactory requirements as to evidence of birth are insisted upon; and birth and baptismal certificates when accepted as evidence of age must have been recorded at least ten years before the application for the permit.

The requirement that the physical examination shall be conducted by two physicians is modified so as to make one sufficient.

If the age given in the employment certificate is subsequently found to be incorrect, the certificate of employment is to be revoked. If the physical examination shall indicate that the child is not able to engage in work generally, the physician may certify him as competent to engage in special limited occupations.

The educational requirements are raised from the fifth grade to the eighth grade.

In order to assist the school authorities in the enforcement of truancy acts the employer is required to certify the time of the commencement of the child's employment and to return the child's employment certificate on termination of employment.

If the physical or moral well being of the infant is being injuriously affected by the employment, the employment certificate may be revoked. In order to determine whether the employment is injurious or not periodical physical examinations are provided for.

A civil remedy for the collection of penalties is provided in addition to the criminal penalties.

Respectfully submitted,

WALTER C. CLEPHANE, *Chairman*

ERNST FREUND

CHARLES R. HOLLINGSWORTH

ARTHUR W. DAVIS

NELLIS E. CORTHELL

CHRISTOPHER L. AVERY

ADOLPH G. WOLF

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

FIRST TENTATIVE DRAFT OF A NEW UNIFORM CHILD LABOR LAW

DEFINITIONS

1 SECTION 1. In this act the following words, unless a differ-
2 ent meaning is required by the context, or is specifically pre-
3 scribed, shall have the following meanings:

4 “Gainful Occupation or Employment,” shall mean the gain-
5 ful pursuit of any trade, occupation, or branch of industry or
6 labor, including agricultural pursuits and domestic service,
7 any particular operation thereof, and the service for gain of
8 any particular employer, *Provided that*, these words shall not
9 be interpreted to mean service performed by a minor in or
10 about the residence of his family or on the farm connected
11 with such residence.

12 “Street trade,” shall mean any business or occupation of
13 distributing, soliciting, selling, displaying or offering for sale
14 any merchandise, handbills, circulars, newspapers, magazines,
15 periodicals, or any other articles, or employment or work as a
16 shoe polisher or in any other trade or occupation, in any street,
17 alley, court, square, or other public place.

18 Wherever the masculine pronoun is used in this act, the
19 feminine shall in the appropriate places be understood.

Note: As to children in industrial schools see Sec. 18 *infra*.

The principal objection to the above section appears to come from those who believe that agricultural pursuits should not be included among the occupations dealt with by this act. It is therefore deemed wise to append the following memorandum prepared by the U. S. Bureau of Labor:

“While it must be admitted that there are many administrative difficulties in the way of enforcing any child labor standards in agricultural pursuits and in domestic service, it seems absolutely essential that some beginning be made in attempting to cope with the evils, now recognized, of exploitation of children in work of this kind injurious to them, particularly in agricultural work. The failure of child labor laws to cover this employment has been based, not only upon the recognized difficulties of enforcement but also largely upon the assumption that farm work is healthful and advantageous for young children—an assumption which in the light of known

agricultural child labor conditions can no longer be supported. There is no intrinsic reason why the law should prevent a child from working 12 hours a day in a canning shed, for instance, and fail to protect the child who works 12 hours a day, while school is in session, cultivating or harvesting sugar beets or onions. Long hours, exposure to the extreme heat of summer weather, the possibility of physical strain harmful not only in its immediate effects but in its effect upon physical development, and irregular school attendance due to the varying demands of field work in early spring and late fall, are among the evils which make agricultural work as undesirable for children as many other types of employment which are now subject to legal regulation. Moreover, much younger children are employed at farm work than are permitted by even the most backward child labor laws to enter upon other occupations. It is a common assumption, also, that the child agricultural worker is engaged only in light tasks on the 'home farm' and under his parents' protecting care, while as a matter of fact large numbers of children are employed not on the home farm at all, but, either with or without their parents in labor 'gangs,' working under considerable pressure and living under unsanitary and otherwise unhealthful conditions.

"It is true that if school terms were long enough and if compulsory school attendance laws were rigidly enforced, one of the serious indictments against farm labor for children would be removed. But this would require a strong system of centralized enforcement such as is found in few States. It is for this reason, among others, that it was suggested that the proposed law should contain also compulsory school attendance provisions. But even this would not prevent exploitations outside school hours, during school term, and during school vacations.

"An extensive study of the regulation of agricultural employees throughout the world was made in preparation for the Third Session of the International Labour Conference held in Geneva in 1921, and while the report states that in many countries reliance is placed chiefly upon the indirect operation of school attendance laws to protect children from too early and difficult agricultural labor, the following excerpts show a recognition of the need for an attempt at direct regulation and give in detail the direct regulations which are in force in England and a few European countries.

'In Europe, as in the Western Hemisphere, there are few examples of direct legislation bearing on the labour of children in agriculture, either with respect to the age of admission to agricultural work or in relation to other means of protection. The reason is not far to seek. Throughout Europe the public conscience has been awakened to the evils resulting to children from their premature admission to factory life. It does not need close study of any industry to realize that a child must suffer physically if he spends most of his waking hours in a crowded workshop; and it would probably be generally conceded that minding machines is an unsuitable occupation for young children. It is easy also to appreciate the moral dangers which beset children too early absorbed into industry.

"In agriculture the need for safeguarding the child is less obvious. To those who agree that a life in the open air and the manifold interests of country life are conducive to the child's physical and mental development, it may not be apparent that, unless judgment and control are exercised as to the type of farm-work allotted to growing boys and girls these children may be set tasks beyond their strength. The lack of limitation of hours of labour in agriculture exposes the child on the farm to special dangers which have already been diminished by legislation in the case of the child in industry. The child farm-worker may be robbed of sleep and recreation necessary for his healthy physical development, and no one be the wiser; in the dulled mental faculties of that child when he becomes an adult few would recognize the result of some local employer's practice of relying on cheap child labour to keep down the wage bill. While the more enlightened farmer has realized that his own interests are better served if he employs children only on such tasks and for such hours of work as are well within the limit of their capacity, the absence of direct legislation makes it difficult in most countries to deal with abuses when they exist. It is undeniable that it is no easy matter to frame a law controlling the employment of children in agriculture; the administration of any such law must inevitably present problems difficult to solve in a practical and satisfactory fashion; and hitherto these difficulties would seem to have discouraged Governments from an attempt to extend to the country child such protection as is enjoyed by the young factory worker. Conditions of work on the land tend to exclude the more familiar forms of Government control as we know them in industry. For the effective inspection of scattered workers whose very employment necessitates their frequent transfer from one part to another of any farm of considerable acreage, a more elastic and less costly system appears to be required.

* * * *

"The specific inclusion of the control of children's agricultural work in general labor laws calls for some consideration. The conditions governing child labour in agriculture are laid down in certain countries; the relevant sections are here summarized:

LABOUR LAWS WITH PROVISIONS RELATING TO THE EMPLOYMENT OF CHILDREN IN AGRICULTURE

LAWS

PROVISIONS

Esthonia. Agri-
cultural Labour Law.

13 May, 1921.

(a) Children under 12 can only be employed on their parents' farms.

(b) Children from 12 to 16 may only be employed on easy work or on herding cattle.

(c) School children cannot be employed except during the holidays.

Italy. Act regulating the cultivation of Rice. 16 June, 1907.

Spain. Regulations for the adoption of maximum working day of eight hours. 15 January, 1920.

Switzerland. (Baselstadt); Act respecting hours of work. 8 April, 1920.

(a) Children under 14 may not be employed in the weeding (*mondatura*) of rice-fields.

(b) Boys under 16 cannot be employed in weeding rice, except on presentation of a birth certificate.

Young persons under 16 are prohibited from working overtime.

Children may not be employed under the age of 12 in any agricultural undertaking other than that of their parents; a limit of six hours work a day during the whole period of compulsory school attendance (6 or 7 to 13, 14, or 15 years of age, differing in the different cantons) and of two hours in the school term is imposed.

* * * * *

'Austria, by the Child Labour Act of 19 December 1918, and Czecho-Slovakia by a very similar Act (17 July 1919) prohibit the general employment of children under 12 years old. In both Acts this prohibition is modified in the case of agriculture, employment in 'light work in agriculture' being permitted from the age of ten. On Sundays and religious festivals children may not be employed save only for 'urgent agricultural operations necessary to save the crops, or for regular (agricultural) operations which cannot be postponed.' Only six hours work may be required of the agricultural child on holidays; this may be compared with the restriction to four hours' employment of a child engaged in other occupations. It may be noted that the definition of child labour is common to both Acts and is exceedingly wide; 'The employment of children in any work whatever for which remuneration is paid or which is carried on regularly even if it is not remunerated.' In Czecho-Slovakia, as in Austria, children may not work more than three hours on school-days. Agricultural employment for children is prohibited 'in general' for the two hours immediately preceding school, and an hour's leisure after school is compulsory.

'In Great Britain and Ireland, apart from the school attendance provisions in the Education Acts, the labour of children in agriculture is already controlled by legislation. In the Agricultural Gangs Act of 1867 it was laid down that the distance to which children might travel for work should be specified on every gang-master's license and it established 8 years as a statutory minimum age for children in agricultural gangs. The Agricultural Children's Act of 1873 (dealing generally with the education of agricultural children) raised the minimum age for employment in gangs to 10. In 1876 the Agricultural Children's Act was itself repealed by the Education Act, and the age of 10 was fixed as a general minimum age for employment. The

fact that the age of exemption from school attendance for employment has since been gradually raised to 12 does not actually provide a restriction of the employment of children by gang-masters; for 'it has been held that this regulation does not apply to employment of children by licensed gang-masters in ways which do not directly interfere with their school attendance.'

'The Employment of Children Act 1903 governs conditions for children in general employment i. e., children other than those engaged in industrial work and its provisions were amended in 1918 by Section 13 of the Education (England and Wales) Act. The employment for more than two hours of any child of '12 or upwards' is prohibited (a) on Sunday, (b) during school hours on any day when school is open, (c) *on any day before 6 in the morning or after 8 in the evening*. This amended paragraph still authorizes a Local Authority to make by-laws permitting employment of children 'of 12 and upwards' in occupations which should be specified ("subject to such conditions as may be necessary to safeguard their interests"), (a) before school hours, (b) by their parents; but it stipulates that no child attending school who is employed before 9 in the morning shall be again employed during the afternoon for more than an hour. The English law of school attendance has been amended and consolidated in the Education Act 8 August 1918, commonly known as the 'Fisher Act,' and the Education (Consolidation) Act 21 August 1921. The main lines of the policy of the Fisher Act are reproduced in the Education (Scotland) Act of 21 November 1918. The leading provisions of the legislation of 1918 in regard to Elementary Schools is contained in Section 8 (1) and (2) of the English Act and Section 14 (1) and (2) of the Scottish Act, where it is laid down that no local Education Authority shall retain power to make by-laws for the exemption of children under 14 (the age-limit for compulsory school attendance). These provisions are now (1922) operative, their effect being to abolish all exemptions from school attendance under 14 and to fix a minimum age of 12 for work in any occupation.

* * * * *

"The International Labor Conference to which this report was made showed a recognition not only of the need but of the practicability of some direct regulation of agricultural work of children by the adoption of draft conventions and recommendations relating to the age of admission to employment in agriculture, to the prohibition of night work of children and young persons in agriculture, and to living—in conditions of agricultural workers.

"As to the objection that provisions regulating agriculture would defeat the real purposes of the proposed law and even jeopardize its passage, it may be said that the draft is merely a recommendation, which in face of unalterable opposition in any specific legislature might be modified even by its proponents—as uniform laws have often been modified."

References to cognate provisions in State laws:

MASSACHUSETTS: General Laws ch. 149, sec. 1.

OHIO: General Code, Sec. 7765-2 as amended by Acts of 1921, p. 376.

WYOMING: Act approved February 20, 1923.

MINIMUM AGE FOR EMPLOYMENT

1 SECTION 2. Except as otherwise herein provided, no person
2 under 14 years of age shall at any time be employed, permitted
3 or suffered to work in or in connection with any gainful occu-
4 pation or employment, except in street trades under the con-
5 ditions in this act specified.

Note: See Secs. 18, 19.

References:

State Laws where a higher minimum age than 14 is fixed for entrance into industry (at least under certain specified conditions or in certain occupations).

CALIFORNIA: Acts of 1919, ch. 259, sec. 1; Acts of 1921, ch. 885, sec. 3a.

IDAHO: Acts of 1921, ch. 215, sec. 75½.

MAINE: Acts of 1919, ch. 190, sec. 2.

MICHIGAN: Howell's Annotated Statutes, 1913, sec. 4018, as amended by Acts of 1915 No. 255, and Acts of 1917 No. 280.

MONTANA: Revised Codes 1907, sec. 1746.

OHIO: General Code, secs. 7766-6 and 7766-9, as amended by Acts of 1921, p. 376, and General Code sec. 12993 as amended by Acts of 1921, p. 376.

SOUTH DAKOTA: Acts of 1907, ch. 135, art. 7, sec. 150.

TEXAS: Acts of 1917, ch. 59, sec. 1, 5.

HOURS OF EMPLOYMENT

1 SECTION 3. No person between the ages of 14 and 18 years
2 shall be employed or permitted or suffered to work in or in con-
3 nection with any gainful occupation or employment, except in
4 street trades under the conditions in this Act specified, more
5 than 8 hours in any one day nor more than 48 hours in any one
6 week, nor more than 6 days in any one week, nor (except in
7 agricultural or domestic labor) before the hour of 7 o'clock in
8 the morning nor after the hour of 6 o'clock in the evening of
9 any day, and every such minor shall be entitled to not less than
10 30 consecutive minutes for mealtime within five hours from
11 the time of beginning work, which shall not be included as a
12 part of the work hours of the day or week. No person between

13 14 and 18 years of age shall be engaged in school and employ-
14 ment for more than 8 hours altogether in any one day. The
15 presence of any such person in any establishment during
16 working hours who is by this Act forbidden to work therein,
17 shall be *prima facie* evidence of his employment therein.
18 Every person, firm, corporation, or company employing any
19 person between the ages of 14 and 18 years shall post and
20 keep posted in a conspicuous place in the establishment in or
21 about which such person is at work, a printed notice containing
22 the name and date of birth of each such person, and stating
23 the hours of beginning and of ending work each day, and the
24 hours when the time allowed for meals begins and ends each
25 day. The employment of any person between the ages of 14
26 and 18 years for a longer time in any day or at any time other
27 than as stated in said notice shall be deemed a violation of the
28 provisions of this section.

Note: See Sec. 23.

References to similar provisions in State laws:

ARIZONA: Revised Statutes 1913, Civil Code, title 14, ch. 2, Sec. 3131.

CALIFORNIA: Acts of 1919, ch. 259, sec. 2.

INDIANA: Acts of 1921, ch. 132 (boys to 16, girls to 18).

OHIO: General Code, sec. 12996 (boys under 16, girls under 18) General Code, sec. 12995 (meal time).

NEVADA: Acts of 1913, ch. 232, sec. 8.

VIRGINIA: Acts of 1922, ch. 489 (8 hour day and 44 hour week; minors under 16).

WASHINGTON: (Rulings of Industrial Welfare Committee).

WISCONSIN: Statutes, sec. 1728a 8 (a) (under 16) (power disengaged from machinery during noon hour.)

OHIO: General Code Sec. 7765, as amended by Acts of 1921 p. 376.

EMPLOYMENT CERTIFICATES

1 SECTION 4. No person between the ages of 14 and 18 years
2 shall be employed, permitted or suffered to work in or in con-
3 nection with any gainful occupation or employment, except in
4 street trades, unless the person, firm, corporation or company
5 employing such minor or suffering or permitting such minor
6 to work, procures and keeps on file in the establishment or in
7 the residence in or about which such minor is at work, for in-
8 spection by any officer designated by law to enforce this act

9 or any act relating to the compulsory attendance of minors at
10 school, or any person authorized by law to inspect places
11 where minors are employed, an employment certificate issued
12 according to the provisions of this act.

References to similar provisions in State laws:

This requirement in one form or another is found in practically all child labor laws. The following are typical:

INDIANA: Acts of 1921, ch. 132, sec. 19.

OHIO: General Code, sec. 7765, as amended by Acts of 1921, p. 376.

WISCONSIN: Statutes, Sec. 1728a. 4 (b) [Certifs. to 17 only].

1 SECTION 5. The employment certificates required by this
2 act shall be issued by a person appointed by the [State board
3 or official enforcing the child labor law] to issue such certificate
4 in the place where such minor resides, or in case the minor re-
5 sides outside of this State , in the place where
6 such minor is to be employed; *Provided* that no person shall
7 have authority to issue an employment certificate for any
8 minor then in or about to enter such person's own employ-
9 ment or the employment of a firm, corporation or company of
10 which he is a member, officer, or employee. Said official
11 shall be designated in this act as the issuing officer, and he shall
12 have authority and is hereby required to administer all the
13 oaths provided for by this act, but he shall not demand or re-
14 ceive a fee for any services rendered by him under this act.

Note: The change from the old uniform law suggested by this section is the placing of the issuance of employment certificates under some central State supervision. The necessity for such centralization has been clearly shown by studies of administration of child labor laws made by the Children's Bureau, and by the experience of Federal agents in enforcing the two former Federal child labor acts. The proper administration of the certificate provisions constitutes in fact the most effective method of enforcing the child labor law, and the agency best fitted for this work is the agency in the State already engaged in the enforcement of that law. Since the first requisite for supervision is control of personnel, that board is here given the power to designate who shall issue certificates, and the right to delegate the power of issuance is taken from the individual issuing officer. The following States have some type of centralized system of certificate issuance: Connecticut, Maryland, New Hampshire, North Carolina, Oregon, South Carolina, Vermont and Wisconsin.

References to similar provisions in State laws:

Issuance under supervision of State Board

(Form varies)

CONNECTICUT: General Statutes, sec. 5323, as amended by Acts of 1921, ch. 272.

INDIANA: Acts of 1921, ch. 132, sec. 19 (in latter part of section).

MARYLAND: Annotated Code, 1911, V. 3, art. 100, sec. 12, as amended by Acts of 1912, ch. 222.

NORTH CAROLINA: Acts of 1919, ch. 100, sec. 10 (form differs).

OREGON: Lord's Oregon Laws, 1910, sec. 5028, as amended by Acts of 1911, ch. 138, sec. 7.

VERMONT: Compiled Laws 1917, section 5832.

WISCONSIN: Statutes 1728a 4 (a).

- 1 SECTION 6. The employment-certificate required by this
2 act shall bear the minor's name, sex, color, and birthplace;
3 the month, day and year of his birth; the place of residence of
4 the minor; the signature of the minor, written thereon in the
5 presence of the issuing officer; the name and address of the
6 employer for whom, and the nature of the specific occupation
7 in which, the certificate authorizes the minor to be employed;
8 the number and the date and place of issuance of the certi-
9 ficate; the period or periods during which its use is valid and
10 such other details as may be prescribed by the [State Board
11 &c.]. It shall be signed by the issuing officer.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 11.

DELAWARE: Revised Code, 1915, sec. 3152, as amended Acts of 1917, ch. 232.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MASSACHUSETTS: General laws, ch. 149, sec. 89.

MINNESOTA: General Statutes 1913, sec. 3843.

- 1 SECTION 7. The issuing officer shall issue an employment
2 certificate only upon the application in person of the minor de-
3 siring employment, accompanied by his parent, guardian or
4 custodian, and only after examining and approving the follow-
5 ing documents, hereinafter referred to as (1) evidence of age,
6 (2) evidence of schooling, (3) evidence of physical fitness, and
7 (4) evidence of prospective employment. If the evidence of
8 prospective employment is not presented within two months
9 after the issuance of the certificate of physical fitness, the

10 issuing officer shall not issue an employment certificate until
11 the minor has been reexamined by the physician and has ob-
12 tained a new certificate of physical fitness. The employment
13 certificate shall be mailed to the employer, and in no case shall
14 it be given to the minor.

References to similar provisions of State laws:

Provision making promise of employment the last evidence required:

NEW YORK: Compulsory Education Law, Article 23, sec. 631, as amended by Acts of 1921, ch. 386, and Acts of 1922, ch. 464.

In General. Practically all child labor laws have a section corresponding to this.

ALABAMA: Acts of 1919, No. 629, sec. 10.-

WYOMING: Act approved Feb. 20, 1923.

Clauses forbidding employment certificates except for minors whose services are necessary for support of himself and family:

CALIFORNIA: Laws of 1921, ch. 885, sec. 1.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MISSOURI: Laws of 1921, p. 184, sec. 7.

MONTANA: (if child has not completed 8th grade) Laws of 1921, ch. 75, sec. 2.

MICHIGAN: Laws of 1917, ch. 280.

WASHINGTON: (under continuation school law) Laws of 1919, ch. 151, sec. 3.

"Best interests" clause:

CONNECTICUT: Gen. Statutes, sec. 5323 as amended by Acts 1921, ch. 272.

WISCONSIN: Statutes Sec. 1728a 6 (c).

1 SECTION 8. The evidence of age required by this act shall
2 consist of one of the following, which shall show the minor to be
3 at least 14 years of age:

4 (a) A birth certificate or duly attested transcript thereof
5 issued by a registrar of vital statistics or other officer charged
6 with the duty of recording births, *provided that* the date of
7 birth shall have been recorded at least ten years before the date
8 of the minor's application for an employment certificate.
9 It shall be the duty of any registrar or other officer charged
10 with the duty of recording births to furnish free of charge to
11 the issuing officer the birth certificate herein required for any
12 minor applying for an employment certificate.

13 (b) A baptismal certificate or transcript of the record of
14 baptism, duly certified, showing the place and date of birth

15 and place and date of baptism of the minor, *provided that*
16 the record shows that the minor was baptized at least ten
17 years before applying for an employment certificate.

18 (c) A bona fide contemporary record of the date of the
19 minor's birth, kept in the Bible in which the records of the
20 births in the family of the minor are preserved, or other docu-
21 mentary evidence satisfactory to the issuing officer, such as a
22 passport showing the date of birth of the minor, or a life in-
23 surance policy: *provided that*, except in the case of a pass-
24 port, such other satisfactory documentary evidence shall
25 have been in existence at least four years before the date of the
26 minor's application for an employment certificate, and pro-
27 vided further, that a school record or a school census record or
28 a parent's, guardian's, or custodian's affidavit or other written
29 statement of age shall not be accepted except as specified in
30 paragraph (d).

31 (d) A certificate signed by the physician authorized to issue
32 certificates of physical fitness under this act, specifying what
33 in his opinion, is the physical age of the minor. Such cer-
34 tificate shall not be granted to a minor except upon a signed
35 application of the minor's parent, guardian or custodian,
36 which application shall contain (1) the name, alleged date of
37 birth, and place of birth and present residence of the minor,
38 and (2) such further facts pertinent to the inquiry as the issu-
39 ing officer may request to aid him in determining the minor's
40 age. Such application shall be sworn to by the minor's parent,
41 guardian or custodian before the issuing officer, and shall be
42 filed for not less than 60 days to permit an examination to be
43 made of the statements contained therein, during which
44 period the issuing officer shall attempt to secure documentary
45 evidence of the minor's age. In case no facts appear within
46 such period tending to discredit or contradict any material
47 statement of such application, the issuing officer may direct
48 the minor to appear before the physician heretofore designated
49 for an examination as to his physical age. Such certificate of
50 age shall show the height and weight of the minor and other
51 evidence of physical age revealed by the physician's examina-
52 tion or upon which the opinion of the physician is based.

53 The record of age as given on the register of the first school
54 attended by the minor for which such record is available, or a
55 school census record of age, if obtainable, shall be submitted
56 with the physician's certificate showing physical age.

57 The issuing officer shall require the evidence of age specified
58 in paragraph (a) in preference to that specified in any subse-
59 quent paragraph, and shall not accept evidence of age permit-
60 ted by any later paragraph unless he shall receive and file satis-
61 factory evidence that none of the proofs of age required by the
62 preceding paragraph or paragraphs can be obtained.

63 If after the issuance of a certificate, evidence is procured
64 which shows the minor to be under 14 years of age, the issuing
65 official shall revoke the certificate issued.

References to corresponding provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 10.

DELAWARE: Revised Code, ch. 90, Art. 3 (as amended by Acts of 1917,
ch. 232), sec. 3135.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MASSACHUSETTS: General Laws, ch. 149, sec. 87.

MICHIGAN: Acts of 1909, Act No. 285, sec. 10 (amended by Acts of 1917,
Act No. 280).

NEW YORK: (See below).

OHIO: General Code, sec. 7766-1, as amended by Acts of 1921, p. 376.

PENNSYLVANIA: Acts of 1915, P. L. 286, sec. 15.

VIRGINIA: Acts of 1922, ch. 489, sec. 5.

WISCONSIN: Statutes, sec. 1728a 5 (a) and rulings of Industrial Commis-
sion.

Provision requiring delay before physicians' certificate of age.

NEW YORK: Compulsory education law, Art. 23, sec. 631 (11) (c) as
amended by Acts of 1921, ch. 386, and Acts of 1922, ch. 464 (40 days—
was previously 60 days and 90 days). [See also Rulings under Federal
Child Labor Tax Law.]

1 SECTION 9. The evidence of schooling required by this act
2 shall be a school record filled out and signed by the principal or
3 chief executive officer of the school which the minor has last
4 attended, or by someone duly authorized in writing by him;
5 *Provided*, that in case such school record cannot be obtained, or
6 in case the issuing officer is in doubt as to the educational quali-
7 fications of the applicant, as hereinafter specified, he shall
8 examine or cause to be examined the minor to determine

9 whether such minor is able to meet the educational standard
10 required and shall file in his office a statement setting forth
11 the result of such examination. In case the minor is to be em-
12 ployed at such times as would prevent his regular attendance
13 at school during all or any part of the school term, the school
14 record shall certify that the said minor is able to read and
15 write correctly sentences in the English language, has satis-
16 factorily completed the work of the eighth grade of the ele-
17 mentary school course prescribed for the public schools of the
18 State, or its equivalent, and has attended school for at least
19 130 days during the 12 months preceding his application for
20 said employment certificate. In case the minor is to be em-
21 ployed only during the whole or some part of a regular vaca-
22 tion period of the public schools, [when no vacation school is in
23 session], the requirement of a school record may be waived.
24 In case the minor is to be employed during the regular school
25 term but only at such hours as would not prevent his regular
26 school attendance during the entire school term, the school
27 record need not show that the minor has completed the eighth
28 grade, but shall certify that in the opinion of the said principal
29 or chief executive officer the minor is physically and mentally
30 qualified to undertake such work in addition to the regular
31 school work required by law. In case a minor has attended
32 more than one school during the 12 months preceding his
33 application for the employment certificate, the principal or
34 chief executive officer of each school or someone duly author-
35 ized in writing by him, shall separately certify to the number
36 of days attended by the minor in such school during such year,
37 and no employment certificate shall be issued to such minor
38 unless the total of the days so attended shall be at least 130
39 days.

References to corresponding provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 10 [4th grade].

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by acts of 1917, ch. 232) sec. 3155.

INDIANA: Acts of 1921, ch. 132, sec. 19.

KANSAS: Acts of 1917, ch. 227, sec. 6.

MASSACHUSETTS: General Laws, ch. 149, sec. 88 [6th grade].

MINNESOTA: General Statutes 1913, sec. 3842 [8th grade requirements].

MONTANA: Acts of 1913, ch. 76, sec. 1101 as amended by Acts of 1921, ch. 75 [8th grade standard].

NEW YORK: Compulsory education law, Art. 23, sec. 630 as amended by Acts of 1921, ch. 386 [vacation certificate]; sec. 631, as amended by Acts of 1921, ch. 386, and by Acts of 1922, ch. 464.

OHIO: General Code, sec. 7766-1, as amended by Acts of 1921, p. 376 [7th grade].

OREGON: Industrial Welfare Commission Order No. 46 (effective October 14, 1919) [8th grade standard].

PENNSYLVANIA: Acts of 1915, P. L. 286, sec. 13 [6th grade]; sec. 16.

VERMONT: Compiled Laws, 1917, sec. 5833 [8th grade].

WISCONSIN: Statutes, sec. 1728a 5 (b). [8th grade].

1 SECTION 10. The evidence of physical fitness required by
2 this act shall be a certificate of physical fitness signed by a
3 public health, public school, or other public physician, ap-
4 pointed for this purpose by the issuing officer with the approv-
5 al of the [State Board authorized to enforce the child labor
6 law] showing the height and weight of the minor and other
7 facts upon which the physician's opinion as to the minor's
8 physical fitness is based, and stating that said minor has been
9 thoroughly examined by the said physician, and that he is in
10 sound health, and is either physically fit to be employed in any
11 occupations not prohibited by law for a boy or girl, as the case
12 may be, of his age, or that he is physically fit to be employed
13 under certain limitations, specified therein. If the physician
14 cannot vouch for the minor's complete physical ability to en-
15 gage in any legal occupation he may either refuse to issue a
16 certificate of physical fitness, in which case he shall notify the
17 issuing officer of his refusal, or he may indicate on the certifi-
18 cate of physical fitness such limitations as to occupations
19 in which, in his opinion, the said minor may engage without
20 injury to his health or physical development, and also such
21 limitations as to the time for which the said certificate shall
22 be valid as he may deem desirable. The issuing officer may
23 accept such certificate as the proof of physical fitness required
24 by this act, but the employment certificate granted on such
25 proof shall be limited as specified in the certificate of physical
26 fitness. Said employment certificate shall state clearly the
27 limitations upon its use, both as to occupations and as to time,
28 and shall be valid only when used under the limitations so

29 stated. A new employment certificate shall be issued to such
30 child only after reexamination by the physician and the is-
31 suance of a new certificate of physical fitness as herein speci-
32 fied. No fee shall be charged or received for any certificate of
33 physical fitness.

References to similar provisions in State laws: (The following 22 states require an examination by a physician before the issuance of a regular employment certificate).

ALABAMA: Acts of 1919, No. 629, sec. 10.

ARIZONA: Revised Statutes 1913, Civil Code title 14 ch. 2, s. 3122.

CALIFORNIA: Acts of 1921, ch. 885, sec. 3a.

CONNECTICUT: Acts of 1919, ch. 264.

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by Acts of 1917 ch. 232) sec. 3155 [limited certificate].

ILLINOIS: Acts of 1921, p. 435, sec. 5.

INDIANA: Acts of 1921, ch. 132, sec. 19.

IOWA: Code 1897, Supplemental Supplement 1915, sec. 2477-d.

KENTUCKY: Statutes, 1915, sec. 331a. 4, as amended by Acts of 1920, ch. 152.

MARYLAND: Code of Public General Laws, art. 100, sec. 13, as amended by Acts of 1916, ch. 222, as amended by Acts of 1916, ch. 701.

MASSACHUSETTS: General Laws 1921, ch. 149, sec. 87.

MINNESOTA: General Statutes 1913, sec. 3842.

MISSOURI: Acts of 1921, p. 184, sec. 7.

NEW HAMPSHIRE: Acts of 1921, ch. 85, pt. III (b) sec. 25.

NEW JERSEY: Acts of 1914, ch. 223, sec. 7.

NEW YORK: Compulsory education law, Art. 23, sec. 631, as amended by Acts of 1921, ch. 386, and Acts of 1922, ch. 464.

NORTH CAROLINA: State Child Welfare Commission Rulings, Sept. 6, 1921.

OHIO: General Code, sec. 7766-1, as amended by Acts of 1921, p. 376, and sec. 7766-3, as added by Acts of 1921, p. 376.

PENNSYLVANIA: Acts of 1915, P. L. 286, sec. 14.

RHODE ISLAND: General Laws ch. 78, sec. 1, as amended by laws of 1916 ch. 1378, sec. 1.

VIRGINIA: Acts of 1922, ch. 489, sec. 5.

WEST VIRGINIA: Acts of 1919, ch. 17, sec. 3.

1 SECTION 11. The evidence of prospective employment re-
2 quired by this act shall consist of a statement signed by the
3 prospective employer, or by some one duly authorized on his
4 behalf, promising to give the minor in question present legal
5 employment, setting forth the specific character of the work
6 such minor is to do, and the number of hours per day and days

7 per week which said minor shall be employed, and agreeing to
8 return the employment certificate according to the provisions
9 of this act.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 10.

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by Acts of 1917, ch. 232) sec. 3155.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MASSACHUSETTS: General Laws, ch. 149, sec. 87.

NEW YORK: Compulsory education law, Art. 23, sec. 631, as amended by Acts of 1921, ch. 386 and Acts of 1922 ch. 464.

OHIO: General Code, sec. 7766-1, as amended by Acts of 1921, p. 376.

PENNSYLVANIA: Acts of 1915, P. L. 286, sec. 12.

VIRGINIA: Acts of 1922, ch. 489, sec. 5.

WISCONSIN: Statutes, sec. 1728a. 5 (c).

1 SECTION 12. Every employer receiving an employment
2 certificate for any minor shall immediately notify the issuing
3 officer, in writing, of the time of the commencement of such
4 employment. Immediately upon the termination of the em-
5 ployment, the employer shall return such certificate by mail
6 to the issuing officer; and the parent, guardian or custodian of
7 such minor shall immediately cause him to return to school.
8 In case the employer has not been notified that the minor has
9 left his employ, unexplained absence from work for a period of
10 five consecutive working days shall constitute termination of
11 employment for the purposes of this section. It shall be un-
12 lawful for any employer to reemploy any such minor without
13 first obtaining a new employment certificate. The issuing
14 officer shall file the certificate so returned, and shall immediate-
15 ly report to the proper school authorities the fact that the
16 said minor is unemployed, giving the name, place of birth and
17 place of residence of the minor, and the residence of his par-
18 ent, guardian or custodian.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 12.

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by Acts 1917, ch. 232) sec. 3156.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MASSACHUSETTS: General Laws, ch. 149, sec. 86 (as amended by Acts of 1921, ch. 351 sec. 2.)

MICHIGAN: Acts of 1909, Act No. 285, sec. 10. (amended by Acts of 1917, Act No. 280) [5 days absence without explanation considered withdrawal].

NEW YORK: Compulsory education law, art. 23, sec. 627, as amended by Acts of 1921, ch. 386, and Acts of 1922, ch. 464.

OHIO: General Code, sec. 12995 [Liability of employer who fails to return certificate].

VIRGINIA: Acts of 1922, ch. 489, sec. 11.

WISCONSIN: Statutes, sec. 1728a. 7 (c) [Liability of employer who fails to return certificate].

1 SECTION 13. Any person whose employment certificate has
2 been returned as provided in this act may obtain a new certi-
3 ficate upon presenting a new promise of employment and a new
4 certificate of physical fitness issued as described in section 10
5 by the physician authorized to issue certificates of physical
6 fitness under this act. *Provided, that* the physician may in his
7 discretion issue a certificate of physical fitness without re-
8 examining the minor if the said minor, within two months pre-
9 vious to his application for a subsequent employment certifi-
10 cate, has been examined and granted such a certificate, or has
11 been examined and found physically qualified to continue at
12 work under the provisions of section 16 of this act. The fact
13 that the physical reexamination has not been given and the
14 reasons therefor shall be clearly stated on the certificate of
15 physical fitness.

References to similar provisions in State laws:

NEW YORK: Compulsory education law, Art. 23, sec. 631, as amended by Acts of 1921, ch. 386 and Acts of 1922, ch. 464.

OHIO: General Code, sec. 7766-2, as added by Acts of 1921, p. 376.

VIRGINIA: Acts of 1922, ch. 409, sec. 12.

1 SECTION 14. Whenever it shall appear to the issuing officer
2 or to the [State Board enforcing the child labor law] that any
3 employment or age certificate has been improperly or il-
4 legally issued or that any statement contained therein is not
5 true, or that any minor has been illegally employed, or that
6 the revocation of the certificate is necessary in order to pre-
7 vent serious and imminent harm to the physical or moral wel-
8 fare of any person under 18 the said [issuing officer or Board]
9 may upon investigation revoke the certificate, and for the
10 purposes of such investigation is authorized to subpoena wit-

nesses, to hear evidence, and to require the production of relevant books or documents.

Whenever an employment certificate is for any reason revoked, the authority revoking the certificate shall immediately serve a written notice of such revocation, either in person or by registered mail, upon the employer of such minor, upon the parent, guardian or custodian of the minor to whom such certificate was issued, and upon the issuing officer. Upon receipt of such notice the employer shall forthwith return the revoked certificate to the officer issuing the same and shall discontinue the employment of the minor. The parent, guardian or custodian of such minor shall immediately cause him to return to school, and the issuing officer shall notify the proper school authorities in the same manner as upon the return of an employment certificate.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, sec. 11.

INDIANA: Acts of 1921, ch. 132, sec. 19.

MISSOURI: Acts of 1921, p. 184, sec. 11.

NEW YORK: Compulsory education law, Art. 23, sec. 631 (as amended by Acts of 1921, ch. 386, and Acts of 1922, ch. 464).

WISCONSIN: Statutes, sec. 1728a. 6 (b). [Power to revoke certificates when the physical or moral welfare of child will be best served by such revocation.]

[Twelve states (Alabama, Arkansas, California, Georgia, Indiana, Kansas, Maine, Missouri, New Jersey, Rhode Island, West Virginia, and Wisconsin) give the State board or official authorized to enforce the labor law power to revoke certificates illegally issued].

SECTION 15. Upon the request of any employer who wishes to employ a person who represents his age to be between 18 and 21 years, it shall be the duty of the issuing officer to issue to such prospective employee upon presentation of the same proof of age as is required for employment certificates under this act, a special age certificate showing his name, address, age and date and place of birth.

References to similar provisions in State laws:

CALIFORNIA: Acts of 1919, ch. 258, sec. 3b, as amended by Acts of 1921, ch. 885.

INDIANA: Acts of 1921, ch. 132, sec. 19.

KENTUCKY: Statutes 1915, sec. 331a. 4, as amended by Acts of 1918, ch. 102, as amended by Acts of 1920, ch. 152.

MICHIGAN: Howell's Annotated Statutes 1913, sec. 4019, as amended by Acts of 1915, No. 255.

MONTANA: Revised Codes 1907, sec. 1749.

OHIO: General Code, sec. 7770-1, as added by Acts of 1921, p. 376.

WEST VIRGINIA: Acts of 1919, ch. 17, sec. 5.

WISCONSIN: Statutes, sec. 1728e. 2.

INSPECTION

1 SECTION 16. It shall be the duty of each issuing officer to re-
2 quire periodical examinations, at least annually, of all minors
3 at work on certificates issued by him. Whenever so required
4 by the issuing officer, every such person under the age of
5 eighteen years who is at work or who is employed, permitted,
6 or suffered to work in or in connection with any gainful occu-
7 pation or employment, shall submit to a physical examina-
8 tion by the physician appointed to issue certificates of physical
9 fitness under this act. If any such person fails to submit to
10 such examination, or if, on examination, the physician finds
11 him physically unfit to be employed in the work in which his
12 employment certificate entitles him to engage, said physician
13 shall submit to the issuing officer a report to that effect on the
14 form provided for the record of examination, and the
15 said issuing officer shall thereupon revoke such certificate.
16 Any person whose certificate has been so revoked may obtain
17 a new certificate whenever he may be able to comply with the
18 provisions of sections 10 and 13 of this act.

References to corresponding provisions in State laws:

INDIANA: 1921, ch. 132, sec. 20 [examination not required to be at regular intervals].

MISSOURI: Acts of 1921, p. 184, sec. 8 [makes periodical examinations possible].

VIRGINIA: 1922, ch. 489, sec. 12 [certificate void at end of one year].

PROHIBITED EMPLOYMENTS

1 SECTION 17. No one shall employ, permit, or suffer any
2 person under the age of 21 years to work in any place of em-
3 ployment, or at any employment, dangerous or prejudicial to

4 his life, health, safety or welfare or where such employment
5 may be dangerous or prejudicial to the life, health, safety or
6 welfare of other employees or frequenters, as determined in
7 the next succeeding paragraph, *Provided* that classifications
8 of employments, of places of employment and of persons under
9 the age of twenty-one years, shall have been fixed and orders
10 based upon such classifications issued, as provided in the next
11 succeeding paragraph of this section, for a period of at least
12 thirty days.

13 It shall be the duty of the [State Board enforcing the child
14 labor law], and the said Board shall have power, jurisdiction
15 and authority, to investigate, determine and fix reasonable
16 classifications of employments, of places of employment, and
17 of persons under the age of twenty-one years, and, after hear-
18 ing duly held, to issue general or special orders prohibiting the
19 employment of such persons in any occupation or at any place
20 dangerous or prejudicial to their lives, health, safety or wel-
21 fare, or where such employment may be dangerous or prej-
22 udicial to the lives, health, safety or welfare of other em-
23 ployees or frequenters; and every such order shall have the
24 force of law; *Provided*, That no such order shall permit the
25 employment of any person at any occupation specified in the
26 following schedule at a lower age than the age therein speci-
27 fied.

28 The employments and places of employment designated in
29 the following schedule are prohibited to persons under the
30 ages specified.

31 (a) Under twenty-one years of age:

32 In [cities of specified size] before six o'clock in the morning
33 and after eight o'clock in the evening of any day, as messenger
34 for a telegraph or messenger company, or other company en-
35 gaged in similar business in the distribution, transmission or
36 delivery of messages or goods.

37 (b) Under eighteen years of age:

38 (1) Blast furnaces: in or about. (2) Boats and vessels en-
39 gaged in the transportation of passengers or merchandise: as
40 pilot, fireman, or engineer. (3) Dusts: operating or using any
41 emery, tripoli, rouge, corundum, stone, carborundum, or

42 abrasive or emery polishing or buffing wheel, where articles of
43 the baser materials or of iridium are manufactured; and in any
44 occupation causing dust in injurious quantities. (4) Electric
45 wires: on the outside erection and repair of electric wires, in-
46 cluding telegraph and telephone wires. (5) Elevators: in the
47 running or management of any elevators, lifts or hoisting
48 machines or dynamos. (6) Explosives: in or about establish-
49 ments where nitro-glycerin, dynamite, dualin, guncotton,
50 gunpowder, or other high or dangerous explosives are manu-
51 factured, compounded or stored. (7) Matches: in dipping,
52 dyeing or packing. (8) Metal industry: cutting or stamping
53 machines. (9) Mine, quarry coal breaker or coke oven: in,
54 about, or in connection with. (10) Oiling or cleaning: in
55 oiling, wiping or cleaning dangerous or hazardous machinery
56 in motion or assisting therein. (11) Railroads, street railways
57 and interurban railroads, whether steam, electric, or hy-
58 draulic: in switch-tending, gate-tending, or track repairing,
59 or as brakeman, fireman, engineer, motorman, conductor,
60 or telegraph operator.

61 (c) Under sixteen years of age:

62 (1) Automobile, motor car, or truck: operating. (2)
63 Bakeries: dough brakes or cracker machinery of any de-
64 scription. (3) Belts: adjusting belts in motion; sewing or
65 lacing belts in any capacity. (4) Boilers: operating any steam
66 boiler or steam-generating apparatus. (5) Bowling alley,
67 pool room or billiard room. (6) Building trades: on scaffold-
68 ing, or on a ladder or in heavy work. (7) Burnishing ma-
69 chines in any tannery or in leather manufacturing. (8) Corru-
70 gating rolls in corrugated paper, roofing or washboard factories.
71 (9) Docks or wharves. (10) Iron and steel: wire or iron-
72 straightening machinery, punchers or shears. (11) Laundry
73 Machinery. (12) Machinery: operating or assisting in oper-
74 ating or taking material from any circular or bandsaw, or
75 any crosscut saw or slasher, or other cutting or pressing
76 machine from which material is taken from behind; operating
77 or assisting in operating, washing, grinding, or mixing machin-
78 ery. (13) Paints and poisons: manufacture of paints, colors
79 or white or red lead; manufacture of any composition in

80 which dangerous or poisonous acids are used; manufacture
81 or preparation or use of compositions of dangerous, or poison-
82 ous dyes; manufacture or preparation of compositions with
83 dangerous or poisonous gases; manufacture or preparation
84 or use of compositions of lye or in which the quantity
85 thereof is injurious to health. (14) Paper cutting machines.
86 (15) Paperbox factories: corner staying machines. (16) Presses:
87 cylinder or job, boring or drill. (17) Rolling mill machinery.
88 (18) Rubber: washing, grinding or mixing mill or calender
89 rolls in rubber manufacturing. (19) Soldering. (20) Stamping
90 machines: in washer and nut factory, in lace-paper and leath-
91 er manufacturing. (21) Theater or concert hall, moving
92 picture theater, or other place of amusement. (22) Tobacco:
93 in any tobacco warehouse, cigar or other factory where tobacco
94 is manufactured, prepared, assorted or packed. (23) Tunnel
95 or excavation. (24) Vessel or boat. (25) Wood-working:
96 wood-shaper, woodjointer, planer, sandpaper, woodpolishing
97 or woodturning or boring machine. (26) Wool, cotton, hair,
98 upholstering: carding machine, or machine used in picking
99 wool, cotton, hair or any other material.

100 (d) Under fourteen years of age:

101 Street trades, except that boys between 12 and 14 years of
102 age may distribute newspapers, magazines or periodicals on
103 fixed routes.

104 (e) Female under twenty-one years of age:

105 (1) Employment in any capacity where such employment
106 compels her to remain standing constantly. (2) In or about
107 any mine or quarry. (3) As a bell hop in any hotel. (4) In
108 oiling or cleaning machinery while in motion. (5) In street
109 trades.

Note: As to constitutionality of acts delegating to ministerial boards the
duty of classification above referred to see

State v. Lange Canning Co. (Wis.) 157 N. W. 777, 160 N. W. 57.

Stattler v. O'Hara, 139 Pac. 743.

Mantsewich v. U. S. Gypsum Co. (N. Y.) 112 N. E. 471.

Rail & River Coal Co. v. Yaple, 214 Fed. 273.

Reagan v. Farmers' Loan & Trust Co., 154 U. S. 362.

Oregon Ry. & Nav. Co. v. Campbell, 173 Fed. 957.

Prentis v. Atl. Coast Line, 211 U. S. 210.

Int. Com. Com. v. Ry. Co., 167 U. S. 479.
 L. & N. Ry. Co. v. Garrett, 231 U. S. 298.
 Houston & Tex. Ry. v. U. S., 234 U. S. 342.
 L. & N. Ry. Co. v. I. C. C., 184 Fed. 118.
 Kans. City So. Ry. v. U. S., 231 U. S. 423.
 U. S. v. L. & N. Ry. Co., 236 U. S. 318.
 St. & I. M. Ry. v. Taylor, 210 U. S. 281.
 Pennell v. P. & R. Ry. Co., 231 U. S. 675.
 U. S. v. B. & O. Ry. Co., 226 Fed. 220.
 Same v. Yazoo & M. V. R. R. Co., 203 Fed. 159.
 Mfg'r's L't & Heat Co. v. Ott, 215 Fed. 940.
 Sheldon v. Hoyne, 261 Ill. 222, 103 N. E. 1021.
 Isenhour v. State, 157 Ind. 517, 62 N. E. 40.
 Blue v. Beach, 155 Ind. 121, 56 N. E. 89.
 Welch v. Swasey, 193 Mass. 364, 79 N. E. 745.
 Arms v. Ayer, 192 Ill. 601, 61 N. E. 851.
 Plymouth Coal Co. v. Penn., 232 U. S. 531.
 Re Kollock, 165 U. S. 526.
 Jacobson v. Mass., 197 U. S. 11.
 State v. Burdge, 95 Wis. 390, 70 N. W. 347.
 State v. Frear, 146 Wis. 291, 131 N. W. 832.
 U. S. v. Grimand, 220 U. S. 506.
 Nalley v. Home Ins. Co. (Mo.) 157 S. W. 769.
 O'Neil v. Ins. Co., 166 Pa. 72, 30 Atl., 943.
 Merchant's Exchange v. Knott, 212 Mo. 616, 111 S. W. 616.
 Harmon v. State, 66 Ohio St. 249, 64 N. E. 117.
 Burcher v. People (Col.) 93 Pac. 14.
 Williams v. Evans (Minn.) 165 N. W. 495.
 Holcombe v. Creamer (Mass.) 120 N. E. 354.
 L. H. & St. L. Ry. Co. v. Lyens (Ky.) 159 S. W. 971.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, secs. 5, 6.
 DELAWARE: Revised Code ch. 90, art. 3 (as amended by Acts of 1917, ch. 232) sec. 3149, 3150.
 INDIANA: Acts of 1919, ch. 132, secs. 22; 23; 24.
 MASSACHUSETTS: General Laws, ch. 149, secs. 61-64, 66.
 MISSOURI: Acts of 1921, p. 184, secs. 6, and Acts of 1919, p. 250, amending Revised Statutes, sec. 3527, 3528.
 OHIO: General Code, secs. 12996-1; 13001; 13002; 13003; 13005; 13007-3; 13007-4; 13007-5; 13007-6.
 PENNSYLVANIA: Acts of 1915, P. L. 286, secs. 5, 6.
 VERMONT: Compiled Laws, 1917, secs. 5835, 5836.
 WISCONSIN: Statutes, sec. 1728a, 1728a. 3.
 WYOMING: Act approved February 20, 1923.

1 SECTION 18. Nothing in this act shall prevent any pupil
2 from working in the manual training, industrial or agricultural
3 department of any school when such work is performed under
4 the personal supervision of a properly qualified instructor.

Note: a similar provision is found in the Indiana law (Acts 1921, Ch. 132 Sec. 21).

STREET TRADES

1 SECTION 19. No boy under 16 years of age shall work at
2 any time, or be employed or permitted or suffered to work at
3 any time, in any street trade, unless he complies with all the
4 legal requirements concerning school attendance, and unless
5 he has secured a permit and badge, as hereinafter provided,
6 from the officer authorized under this act to issue employment
7 certificates where such boy resides, and wears said badge in
8 plain sight while so working.

References to street trades laws:

The following States and the District of Columbia require permits and badges (or badges alone) for work in Street Trades, either throughout the State [Alabama, Arizona (no specified requirements); Massachusetts; New York; Virginia; and Wisconsin] or in certain localities [Iowa; Kentucky; Maryland; Minnesota; Rhode Island]:

ALABAMA: Acts of 1919, No. 629, ss. 13, 14, 17.

ARIZONA: Revised Statutes 1913, Civil Code title 14, ch. 2, ss. 3110, 3133.

DISTRICT OF COLUMBIA: 35 Stat. at L. p. 420, ss. 11-14.

IOWA: Code 1897, Supplemental Supplement, 1915, s. 2477-a 1, 2477-d.

KENTUCKY: Statutes 1915, ss. 311a. 3, 331a. 4 (as amended by Acts of 1920, ch. 152); 331a. 15, 331a. 16.

MARYLAND: Annotated Code, 1911 V 3 (1914) art. 100 sec. 13 as amended by Acts of 1916, ch. 701, and Acts of 1918, ch. 495; ss. 26, 28, 31, 37, 43, 46, 48 (as amended by Acts of 1915, ch. 222); 27; 32, 35, 38, 45.

MASSACHUSETTS: General Laws, ch. 149, ss. 69-73, 80-83 and Acts of 1921, ch. 410 amending certain of above sections; ch. 101, ss. 19-21, 33.

MINNESOTA: Acts of 1921, ch. 318.

NEW YORK: Acts of 1921, ch. 386 as am'd by Acts of 1922, ch. 464.

RHODE ISLAND: Acts of 1915, ch. 1264.

VIRGINIA: Acts of 1922, ch. 489, secs. 15-18.

WISCONSIN: Statutes, secs. 1728 p. to 1728 zd.

(The child labor laws of Delaware and New Jersey provide for special types of permits which may be used for work in street trades, but do not require badges.)

1 SECTION 20. The issuing officer shall issue a permit and
2 badge only upon application in person of the minor desiring
3 same, accompanied by his parent, guardian, or custodian,
4 and only after examining and approving the following: (1)
5 Evidence that the minor is of the age required by this act,
6 which shall consist of the same evidence as is required for the
7 issuance of an employment certificate under this act; (2)
8 Evidence of physical fitness, which shall consist of a certificate
9 of physical fitness issued as required for an employment cer-
10 tificate under this act; (3) The written statement of the prin-
11 cipal or chief executive officer of the school which the minor is
12 attending, stating that such minor is an attendant at such
13 school and showing the grade such minor has attained, and
14 certifying that in the opinion of said principal or chief exec-
15 utive officer the minor is physically and mentally qualified to
16 undertake such work in addition to the regular school work
17 required by law: *Provided*, that an employment certificate
18 showing that the minor is physically fit to be employed in any
19 occupation not prohibited by law, as required by this act, be
20 accepted by the issuing officer in lieu of any other requirements
21 for said permit and badge. The principal or chief executive
22 officer of each school shall keep a complete list of all minors in
23 his school to whom permits and badges, as herein required,
24 have been issued, and whenever in the opinion of said prin-
25 cipal or chief executive officer the possession of any such per-
26 mit and badge is detrimental to the school standing or well
27 being of any such minor, shall recommend to the officer issuing
28 the same that the permit and badge of such minor be revoked.

1 SECTION 21. The permit required under this act shall
2 comply with the provisions of section 6 hereof, except that it
3 may omit the name and address of the minor's employer.

1 SECTION 22. The form and color of the permit and of the
2 badge provided for herein shall be such as the [State board

3 enforcing the Child Labor Law] shall designate. No person
4 to whom such permit and badge are issued shall give, loan,
5 sell, or otherwise transfer the same to any other person. All
6 such permits and badges shall expire annually.

1 SECTION 23. No boy under the age of 16 shall work or be
2 employed or suffered or permitted to work at any street trade
3 after eight o'clock in the evening or before six o'clock in the
4 morning, nor more than 4 hours per day or 24 hours per week,
5 if the said minor is attending school, or 8 hours per day or 48
6 hours per week, if he is not attending school; nor, at such
7 times as would prevent his regular school attendance in ac-
8 cordance with legal requirements.

1 SECTION 24. The permit of any minor who at any time
2 works or is employed or permitted or suffered to work at any
3 street trade in violation of the provisions of this act, or who be-
4 comes delinquent or fails to comply with all the legal require-
5 ments concerning school attendance, may be revoked and his
6 badge taken from him by the issuing officer, or by any official
7 designated to enforce this act, for such a period as the issuing
8 officer may require, and such child shall surrender his permit
9 and badge upon the demand of any such official. The permit
10 of a minor who changes his residence, subsequent to its issu-
11 ance, may be revoked in like manner by the officers of the
12 permit district to which he removes. The refusal of any such
13 minor to surrender said permit or badge or the working at
14 any street trade by any minor after notice of the revocation of
15 such permit, shall be deemed a violation of this act.

1 SECTION 25. Any person who, either for himself or as
2 agent of any other person or of any firm, corporation, or com-
3 pany, furnishes or sells or offers for sale to any person under 16
4 any article of any description to be used for the purpose of
5 sale or distribution in any public place, shall first ascertain
6 that said minor wears his own badge in plain sight as herein
7 provided, and if said minor has no badge, no article shall be
8 furnished or sold to him. Any person who violates the pre-
9 ceding provision, or who shall continue to furnish or sell or

10 offer for sale such articles after having received notice from
11 any officer charged with the enforcement of this act, that said
12 minor is not licensed to sell or distribute said articles, shall be
13 punished by a fine of not less than \$10 nor more than \$200, or
14 by imprisonment for not less than 10 days nor more than 60
15 days, or by both such fine and imprisonment.

POWERS AND DUTIES OF [STATE BOARD
OR OFFICER ENFORCING THE CHILD
LABOR LAW]

1 SECTION 26. Employment certificates shall be issued under
2 such rules and regulations as shall be adopted from time to
3 time by the [State board enforcing the child labor law], which
4 are not inconsistent with the provisions of law, and are such
5 as will promote uniformity and efficiency in the administra-
6 tion of this act. Such board shall prescribe forms appropriate
7 to carry out the provisions of the act and shall have power to
8 require reports from local issuing officials. Blank forms shall
9 be supplied free of charge to the several issuing officers and to
10 all employers of minors.

* *References to provisions in State laws giving some State board power to pre-
scribe forms:*

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by Acts of 1917,
ch. 232) sec. 3167.

INDIANA: Acts of 1921, ch. 132, sec. 19.

NEW YORK: Compulsory Education law, art. 23, sec. 631, as amended by
Acts of 1921, ch. 386 and Acts of 1922, ch. 464.

OHIO: General Code, sec. 7766, as amended by Acts of 1921, p. 376.

VIRGINIA: Acts of 1922, ch. 489, sec. 18.

WYOMING: Act approved February 20, 1923.

References to provisions relating to supervision:

INDIANA: Acts of 1921, ch. 132, sec. 24.

VIRGINIA: Acts of 1922, ch. 489, sec. 18.

1 SECTION 27. It shall be the duty of the State Board enforce-
2 ing the child labor law and of its authorized inspectors and
3 agents, and of all city, town and county superintendents of
4 schools, attendance officers, probation officers, police officers,
5 and all persons authorized to issue employment certificates

6 and certificates of physical fitness, to cooperate in causing all
7 the provisions of this act to be enforced, in making complaints
8 against persons violating its provisions, and in prosecuting
9 violations of the same. Said officials are empowered and in-
10 structed to visit and inspect at any time, and as often as shall
11 be practicable and necessary in order effectively to enforce
12 the provisions of this act, all places where persons under 21
13 years of age are employed. The physicians authorized to issue
14 certificates of physical fitness under this act may make such
15 physical examination of minors in their places of employ-
16 ment as they may find necessary to determine the effect of
17 specific occupations upon such minors.

References to corresponding provisions in state laws:

ALABAMA: Acts of 1919, No. 629, sec. 16.

INDIANA: Acts of 1921, ch. 132, sec. 26.

MASSACHUSETTS: General Laws ch. 149, sec. 92.

MINNESOTA: General Statutes 1913, sec. 3847.

OHIO: General Code, sec. 13006.

WYOMING: Act approved February 20, 1923.

PENALTIES

1 SECTION 28. Any person, firm, corporation or company, that
2 (1) employs or permits or suffers any person to be employed
3 or to work in violation of any of the provisions of this act, or
4 any order issued under the provisions of section 17 hereof, or
5 (2) interferes with, obstructs or hinders the [Board enforcing
6 the child labor law,] its officers or agents, or any other person
7 herein authorized, in inspecting places of employment, or (3)
8 refuses to answer properly questions rightfully asked by said
9 persons in the attempt to enforce any provision of this act, or
10 (4) fails to return an employment certificate as required by this
11 act, or (5) violates any provision of this act for which no pen-
12 alty is herein specifically provided; shall for a first offense be
13 punished by a fine of not less than ten dollars nor more than
14 fifty dollars; or by imprisonment of not more than 10 days, or
15 by both such fine and imprisonment; for a second offense by a
16 fine of not less than fifty dollars nor more than two hundred
17 dollars, or by imprisonment for not more than thirty days, or

18 both such fine and imprisonment; for a third or subsequent
19 offense by a fine of not less than two hundred dollars, or by
20 imprisonment for not more than sixty days, or by both such
21 fine and imprisonment.

22 Whoever forges, or procures to be forged, or assists in forg-
23 ing a certificate of birth or other evidence of the age of any
24 person for whom an employment or age certificate is request-
25 ed, and whoever presents or assists in presenting a forged
26 certificate or evidence of birth for the purpose of fraudulently
27 obtaining the employment certificate required by this act,
28 shall be punished by a fine of not less than ten nor more than
29 two hundred dollars, or by imprisonment for not more than
30 one year, or by both such fine and imprisonment. Whoever,
31 being authorized to sign an employment certificate, knowingly
32 certifies to any material false statement therein, shall be
33 punished by a fine of not less than ten nor more than two hun-
34 dred dollars. Whoever, without authority, alters an employ-
35 ment or age certificate after the same is issued, shall be pun-
36 ished by a fine of not less than ten dollars nor more than one
37 hundred dollars.

38 Whoever makes a false affidavit when an affidavit is re-
39 quired under this act, shall be punished by a fine of not less
40 than five dollars nor more than twenty dollars, or by im-
41 prisonment for not less than ten nor more than thirty days.

42 The penalties specified in this act may be recovered by the
43 State against any employer or other person in an action for
44 debt brought before any court of competent jurisdiction, or
45 through criminal proceedings, as may be deemed proper.

References to similar provisions in State laws:

ALABAMA: Acts of 1919, No. 629, secs. 17, 18.

DELAWARE: Revised Code, ch. 90, art. 3 (as amended by Acts of 1917,
ch. 232) sec. 3168.

INDIANA: Acts of 1921, ch. 132, sec. 27.

MASSACHUSETTS: General Laws, ch. 149, sec. 90.

MICHIGAN: Acts of 1909, Act. No. 285, sec. 10 (amended by Acts of 1917,
Act. No. 280) penalty for false statement.

MINNESOTA: General Statutes, 1913, sec. 3846.

OHIO: General Code, secs. 12976-80, 12984-88.

VIRGINIA: Acts of 1922, ch. 489, sec. 17.

WISCONSIN: Statutes, sec. 1728e [sub-division b-, civil suit].

WYOMING: Acts approved February 20, 1923.

PROSECUTIONS

1 SECTION 29. Criminal Prosecutions for violations of this
2 act shall be on [] filed in the [] court by
3 [].

TITLE

1 SECTION 30. This act may be cited as the Uniform Child
2 Labor Law. It shall be so interpreted and construed as to
3 effectuate its general purpose to make uniform the law of
4 those states which enact it.

REPEAL PROVISIONS

1 SECTION 31. All acts or parts of acts inconsistent with any
2 of the provisions of this act are hereby repealed.

DATE WHEN OPERATIVE

1 SECTION 32. This act shall take effect on the []
2 day of [] A. D. 19 [00].

REPORT OF COMMITTEE ON REAL PROPERTY ACTS
To the National Conference of Commissioners on Uniform Laws:

I beg to submit the following as my report as Chairman of the Committee on Uniform Real Property Acts:

(1) Following my appointment I took advantage of the first opportunity I had to make a general review of the field, as result of which I started a correspondence with Mr. Charles C. White, Chairman of the Special Judiciary Committee of the American Title Association.

The result of considerable correspondence with Mr. White is embodied in a letter which I then sent to each member of our Committee, reading as follows:

Baltimore, Md.
October 23, 1924.

Re: Uniform Law Conference

Dear Sir:

As Chairman of Uniform Real Property Acts Committee of Uniform Property Acts Section, I am in accordance with the rule requiring "submission of a report" addressing you as one of the members of this Committee.

1. The title of the subject assigned to our Sub-Committee is, as you will see, "Uniform Real Property Acts."

The very name suggests a scope of field so wide as to make one puzzled even where to enter.

Moreover, the difficulties arise not merely out of the great extent of the territory involved. Not only are there few branches of the law in which such wide variances exist between the laws of the different States as in that of "Real Property," but there is none in which the difficulty of effecting change in the existing system is as great. Title examiners cling tenaciously to rules and principles with which they are familiar, and legislators instinctively recoil from any radical alteration of the laws whereby even a possibility exists of property rights being affected.

As a native and a practising lawyer of one of the old and long settled States, I appreciate still more deeply not only the difficulty of effecting, but the hesitation I personally should have in recommending, such radical changes as would be required in order to assimilate the Real Property laws of these older States to those of the more recently settled ones.

Perhaps the difficulty experienced in gaining serious consideration of the adoption of even so theoretically desirable a system of title registration and protection as the "Torrens System" is the best illustration of this.

2. Moreover, in order intelligently and with any real hope of arriving at some feasible plan of rendering uniform even in minor degree some of these laws, one undertaking the serious consideration of this problem should have at least a general knowledge of the real property laws at present prevailing in the various States, with a view to making some preliminary classification of the States along at least certain general lines.

This is a task which involves far more time and labor than can be given by the average lawyer actively engaged in his profession. It can be properly undertaken only by one who can devote if not all, at least the greater part, of his time to this investigation.

Our Sub-Committee has no funds or appropriation available for this purpose,—the only appropriation made for us being barely sufficient to cover traveling expenses or attending one or two meetings.

3. I therefore see little that the members of our Sub-Committee can do at this time except acquaint themselves with the work so far done and recommendations made by those who have already seriously attacked the problem.

I have in mind, especially, the excellent work of The Special Judiciary Committee of the American Title Association, of which Mr. Charles C. White of the Land Title and Trust Company of Cleveland, Ohio, is chairman.

I am writing Mr. White asking if he will be good enough to send direct, to each of you, a copy of his able and comprehensive "Final Report," to be submitted at the New Orleans meeting of his Association, October 21st to 24th, 1924.

4. On reading this Report, you will see that it deals with "Fifteen Proposals for Uniform Simplified Title Laws."

I propose that each of us carefully consider this Report and be prepared to indicate his "re-action" at the meeting we hope to have before the General Conference assembles next summer.

Without in any sense committing myself, and fully expecting that fuller thought may greatly modify my present extremely nebulous views, I suggest as an illustration of the general mode of procedure that I propose, the following:

Proposals Nos. 1, 4, 5, 12 and 15 shall not be considered at this time. Proposal No. 9 is covered by the Committee of our Section of which Mr. Hunter is Chairman.

Proposals Nos. 6 and 7 are in effect covered by the work of the present committee on Uniform Mortgage Law, of which Mr. Child is Chairman.

Proposals 2, 3, 8, 10, 13 and 14 might be given serious consideration.

I shall appreciate it greatly if each of you will, on receipt from Mr. White of this Report, carefully consider it, and then write me not only your views

as to my tentative suggestions, but indicate generally any thoughts that occur to you as to the manner in which we should approach the question of a "Uniform Real Property Act."

Very truly yours,

(signed) RANDOLPH BARTON, JR.,

Chairman.

(2) I was unable to attend the meeting held in Chicago February 26th to 28th, 1925, but I did address to the Secretary of the National Conference the following letter, dated February 18th, 1925, as constituting my report:

"Last night I reviewed the correspondence I have had in this matter, and I am sending you herewith letter which I had addressed on October 23rd, 1924, to the various members of my Committee.

You will note that it indicates the great difficulty of doing anything concrete in the matter and especially draws attention to the fact that accomplishing anything substantial requires the services of someone who can devote a very large part of his time to the matter. My own time is so excessively occupied that it is really impossible for me to do this. If we had some funds available or someone who could give his time voluntarily it might be different."

(3) I note that Mr. MacChesney in his report of the proceedings at Chicago states that it has practically been decided to get behind the proposal referred to in the foregoing report. Whether or not he meant that we should support all or only some of them, as suggested by me, he does not, of course, clearly indicate.

(4) Not only because the field itself is such a large one, but because it has already been so very thoroughly covered by this other organization, I think that we can do no better than make the work already done the basis for our own deliberations. Moreover, as my previous letters state, to handle the matter in any other way, would involve, in my opinion, the employment of someone able to apply practically his whole time to the investigation and for that there are, as I understand, no funds available.

Respectfully submitted,

RANDOLPH BARTON, JR.

Chairman

REPORT
of the
COMMITTEE ON A UNIFORM FEDERAL TAX
LIEN REGISTRATION ACT

*To the National Conference of Commissioners on Uniform State
Laws:*

Your Committee on a Uniform Federal Tax Lien Registration Act herewith presents its first report with a first tentative draft of the Act.

PRELIMINARY STATEMENT

Internal Revenue Bulletin, Vol. 2, December 17th, 1923, No. 37, page 3, is as follows:

"The second proviso to section 3186, Revised Statutes, United States, as amended by the Act of March 4th, 1913 (37 Stat., 1016); provides that whenever any State by appropriate legislation authorizes the filing of a notice of Federal tax lien in the office of the registrar, or recorder of deeds, of the county of that State (or parishes in the State of Louisiana), the Government's lien shall not be valid in that state as against any mortgagee, purchaser, or judgment creditor until such notice shall be filed in the office of the proper county or parish official of the county within which the property subject to the lien is situated.

A list of the States which have enacted 'appropriate legislation,' together with the date of the act and the effective date thereof, is as follows: ***"

This first Uniform tentative draft is formulated and presented by the committee under the above Federal Statute.

Respectfully submitted,

W. H. WASHINGTON, *Chairman*

W. F. BRUELL

WILLIAM HUNTER

RANDOLPH BARTON, JR.

GEORGE G. BOGERT

HARRISON A. BRONSON

MURRAY M. SHOEMAKER

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

FIRST TENTATIVE DRAFT OF A UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

*To the National Conference of Commissioners on Uniform State
Laws:*

Your undersigned Committee on the Uniform Federal Tax Lien Registration Act submit for the consideration of the Conference the following draft.

A Bill to be entitled, "An Act authorizing the filing of notices of liens for Internal Revenue Taxes payable to the United States of America and the discharges thereof in the Office of the Registrar of Deeds of all Counties in (.....) and prescribing the manner of filing and indexing the same and fixing the compensation therefor, and to make uniform the law relating thereto."

Be it enacted, etc.,

1 SECTION 1. Notices of liens for Internal Revenue Taxes
2 payable to the United States of America and certificates
3 discharging such liens, may be filed in the office of the County
4 Registrar of Deeds of the County or Counties in the State
5 of (.....), within which the property subject to such
6 lien is situated.

1 SECTION 2. When a notice of such tax lien is filed, the
2 Registrar of Deeds shall forthwith enter the same in an alpha-
3 betical Federal Tax Lien Index, showing on one line the name
4 and residence of the taxpayer named in such notice, the
5 Collector's serial number of such notice, the date and hour of
6 filing, and the amount of tax and penalty assessed. He shall
7 file and keep all original notices so filed in numerical order
8 in a file or files and designated Federal Tax Lien Notices.

1 SECTION 3. When a certificate of discharge of any tax lien,
2 issued by the Collector of Internal Revenue or other proper
3 officer, is filed in the office of the Registrar of Deeds, where the
4 original notice of lien is filed, said Registrar of Deeds shall
5 enter the same with date of filing in said Federal Tax Lien
6 Index on the line where notice of the lien so discharged is
7 entered, and permanently attach the original certificate of
8 discharge to the original notice of lien.

1 SECTION 4. Said Registrar of Deeds shall receive twenty-
2 five cents for filing and indexing each notice of lien and the
3 same amount for each certificate of discharge.

1 SECTION 5. Said Federal Tax Lien Index and file or files
2 for said Federal Tax Lien Notices shall be furnished to the
3 County Registrar of each County in the State of (.....),
4 in the manner now provided by law for the furnishing of
5 books in which deeds are recorded.

1 SECTION 6. This Act is passed for the purpose of authorizing
2 the filing of notices of liens in accordance with the provisions
3 of Section 3106 of the Revised Statutes of the United States,
4 as amended by the Act of March 4th, 1915, 37 Statutes at
5 Large, page 1016.

1 SECTION 7. This Act may be cited as the Uniform Federal
2 Tax Lien Registration Act.

1 SECTION 8. This Act shall take effect on the.....day
2 of....., one thousand nine hundred and.....

Respectfully submitted,

Committee:

W. H. WASHINGTON, *Chairman*

W. F. BRUELL

WILLIAM HUNTER

RANDOLPH BARTON, JR.

GEORGE G. BOGERT

HARRISON A. BRONSON

MURRAY M. SHOEMAKER

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

SECOND TENTATIVE DRAFT OF A UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

*To the National Conference of Commissioners on Uniform State
Laws:*

Your undersigned Committee on the Uniform Federal Tax Lien Registration Act submit for the consideration of the Conference the following revised draft.

A Bill to be entitled, An Act authorizing the filing of notices of liens for taxes payable to the United States of America and to make uniform the law relating thereto.

Be it enacted, etc.,

1 SECTION 1. Notices of liens for taxes payable to the United
2 States of America and Certificates discharging such liens, may
3 be filed in the office of the county (Registrar of Deeds of the
4 county or counties) in this State, within which the property
5 subject to such lien is situated.

1 SECTION 2. When a notice of such a tax lien is filed, the
2 (Registrar of Deeds) shall forthwith enter the same in an
3 alphabetical Federal Tax Lien Index, showing on one line the
4 name and residence of the taxpayer named in such notice, the
5 Collector's serial number of such notice, the date and hour of
6 filing, and the amount of tax and penalty assessed. He shall
7 file and keep all original notices so filed in numerical order
8 in a file or files and designated Federal Tax Lien Notices.

1 SECTION 3. When a certificate of discharge of any tax lien
2 issued by the Collector of Internal Revenue or other proper
3 officer, is filed in the office of the Registrar of Deeds, where
4 the original notice of lien is filed, said Registrar of Deeds shall
5 enter the same with date of filing in said Federal Tax Lien
6 Index on the line where notice of the lien so discharged is
7 entered, and permanently attach the original certificate of
8 discharge to the original notice of lien.

1 SECTION 4. Said Federal Tax Lien Index and file or files for
2 said Federal Tax Lien Notices shall be furnished to the
3 (County Registrar of Deeds of each County) in this state in

4 the manner now provided by law for the furnishing of books
5 in which deeds are recorded.

1 SECTION 5. This Act is passed for the purpose of authorizing
2 the filing of notices of liens in accordance with the provisions
3 of Section 3106 of the Revised Statutes of the United States,
4 as amended by the Act of March 4th, 1915, 37 Statutes at
5 large, page 1016.

1 SECTION 6. All Acts and parts of Acts in conflict with this
2 Act are hereby repealed.

1 SECTION 7. This Act may be cited as the Uniform Federal
2 Tax Lien Registration Act.

1 SECTION 8. This Act shall take effect [—————].

REPORT
of the
COMMITTEE ON CO-OPERATION WITH OTHER
ORGANIZATIONS INTERESTED IN
UNIFORM STATE LAWS

During the year your Committee have been in correspondence with the following organizations:

- National Association of Credit Men,
C. H. Woodworth, Manager, Adjustment Bureau Dept.,
41 Park Row,
New York City.
- National Association of Insurance Commissioners,
Mr. Wilson L. Coudon,
Chairman of Committee to Co-operate with Commissioners,
Deputy Commissioner of Insurance,
Baltimore, Maryland.
- National Association of Finance Companies,
C. C. Hanch, General Manager,
76 West Monroe Street,
Chicago, Illinois.
- American Law Institute,
W. D. Lewis, Director,
3400 Chestnut Street,
Philadelphia, Pennsylvania.
- Chamber of Commerce of the United States of America,
Elliot H. Goodwin, Resident Vice-President,
Washington, D. C.
- National Association of Real Estate Boards,
C. C. Hieatt, Chairman,
Committee on State Legislation and Taxation,
231 South Fifth Street,
Louisville, Kentucky.

American Petroleum Institute,
R. L. Welch, General Secretary,
15 West 44th Street,
New York City.

American Warehousemen's Association,
Charles L. Chriss, Secretary,
1110 Bessemer Building,
Pittsburgh, Pennsylvania.

American Bakers Association,
Dr. H. E. Barnard, Secretary,
1135 Fullerton Avenue,
Chicago, Illinois.

American Title Association,
C. C. White, Chairman,
Special Judiciary Committee,
314 Plain Dealer Building,
Cleveland, Ohio.

American Association of Ice and Refrigeration,
Leslie C. Smith, Executive Secretary,
163 West Washington Street,
Chicago, Illinois.

Flavoring Extract Manufacturers Association of the United
States,
Thomas J. Hickey, Secretary,
1238 First National Bank Building,
Chicago, Illinois.

National Confectioners Association,
Walter C. Hughes, Secretary,
1029 Conway Building,
111 W. Washington Street,
Chicago, Illinois.

National Association of Farm Equipment Manufacturers,
H. J. Sameit, Secretary,
608 South Dearborn Street,
Chicago, Illinois.

National Board of Fire Underwriters,
O. B. Ryon, General Counsel,
76 William Street,
New York City.

National Retail Coal Merchants Association,
Joseph E. O'Toole, Secretary and Manager,
1414 South Penn Square,
Philadelphia, Pennsylvania.

National Association for Labor Legislation,
John B. Andrews, Secretary,
131 East 34th Street,
New York City.

National Fertilizer Association,
John D. Toll, Secretary,
1010 Arch Street,
Philadelphia, Pennsylvania.

National Lumber Manufacturers Association of Chicago
Wilson Compton, Secretary,
International Building,
Washington, D. C.

Commercial Law League of America,
Raymond G. Young, Chairman,
Legislative Committee,
424 Omaha National Bank Building,
Omaha, Nebraska.

National Industrial Conference Board,
M. W. Alexander, President,
247 Park Avenue,
New York City.

American Automobile Association,
Ernest N. Smith, Manager,
Pennsylvania Avenue at Seventeenth Street,
Washington, D. C.

Motor Vehicle Conference Committee,
Russell Huffman, Manager,
366 Madison Avenue,
New York City.

National Safety Council,
Sidney J. Williams, Director,
Public Safety Division,
168 North Michigan Avenue,
Chicago, Illinois.

Quite a number of these associations have indicated an interest in the movement of the National Conference of Commissioners but have suggested that at present there seemed to be nothing in which we had a common interest so that there could be any co-operation; others have manifested a more active interest and some have been quite interested to co-operate.

The following extracts from replies received will perhaps best present the attitude of the organizations with which we have been in touch.

The National Confectioners Association said:

We are entirely in sympathy with any effort that has for its object general uniformity of food laws. * * * If you will advise me in just what respect we can be of any special help to you I will be glad to give the matter further consideration.

The Flavoring Extract Manufacturers Association said:

Our association is, of course, interested in uniform state laws, particularly state food laws. However, these state food laws are at the present time nearly uniform in wording, but the difficulty is that they are differently interpreted and administered by the various state authorities and there seems to be no way to overcome this.

We have been over this field so thoroughly that we believe nothing can be accomplished so far as our interests are concerned except through a National Law which will forbid the states to interfere with food products which have passed muster under the National Food Law.

The National Association of Farm Equipment Manufacturers said:

We have had an opportunity to co-operate with you in the past, more particularly in connection with the Uniform Conditional Sales Bill, and will

advise you further in the event that we have any concrete suggestions to submit for your consideration.

The American Warehousemen's Association assisted us materially in connection with the Uniform Warehouse Receipts Act and are interested in the work of the Conference. This Association has called attention to Ohio Senate Bills 254 and 255 passed as amendments to the Warehouse Receipts Act. Bill 255 makes the warehouse receipt valid whether signed by an officer of the company or not if he was presumed to have authority to sign the receipt. This bill has never been considered by the Conference and was not approved by it.

The American Bakers Association said:

Some of us appreciate the fact that legislation would be desirable but, as is the case in many industries, the conflict of opinion as to what constitutes proper legislation is too keen to warrant our taking direct action at this time.

The American Petroleum Institute says that there is no subject pertaining to oil with relation to which it would be possible and desirable to work out a uniform state law.

The National Industrial Conference Board said:

We appreciate very much your advising us of your work and your offer of co-operation. You may be sure that we shall avail ourselves of this as problems come up where your organization may be of service to us.

This organization is in a position to be of very substantial help to us in connection with any act relating to the settlement or adjustment of industrial disputes.

The American Association of Ice and Refrigeration expressed interest in the work of the Conference and invited the Chairman of the Committee to address its convention in Washington, D. C., June 9 and 10, 1925. Being unable personally to attend this meeting we asked Mr. Clephane of Washington to fill the engagement which he kindly consented to do.

The American Title Association has taken an interest in our organization and the chairman of its special judiciary committee attended the meeting of the sections in Chicago and took part in the discussion of several acts considered at that time.

The National Association of Credit Men has expressed a great deal of interest in the enactment in Georgia of the Uniform Negotiable Instruments Act and the Uniform Warehouse Receipts Act and have been in touch with the Chairman of our Legislative Committee with relation to this matter. It is a source of very great regret that neither of these acts has been adopted in Georgia.

The National Association of Insurance Commissioners, through their committee, have had several conferences with your Committee but we have not found any subject on which the committees were agreed that common action could wisely be taken at the present time. There are a number of matters affecting insurance which it would be of advantage to have made uniform such as a uniform basis for state taxation, which has been endorsed by the United States Chamber of Commerce and which I believe to be largely desired by the insurance commissioners of the various states and by the insurance companies but as taxation is a very delicate subject to stir up, especially where such subjects as taxation of insurance companies are involved, there has been a very great hesitancy as to any move in this direction.

The Chamber of Commerce of the United States of America has co-operated with us more or less in the past and is very much interested in the work of our Conference. They have expressed a willingness to do anything they can to further our work such as assisting us in gathering information on subject matters on which we are drafting acts and submitting tentative acts to such of their members as would be especially interested in such acts for their suggestions and criticism. They have also expressed a desire to have copies of all the acts on which we are working for consideration by their organization.

The Commercial Law League appointed a committee of three in each state to co-operate with the commissioners in their respective states in securing the enactment of uniform laws. Last year, however, the personnel of these committees was not communicated to the commissioners in the various states and consequently there was not the close co-operation that might have been had. There is an understanding that in the next legislative year the names of

these committeemen of the Commercial Law League will be communicated to our commissioners so that there may be active co-operation between the two organizations in promoting the enactment of our acts. The Commercial Law League made a contribution to the Conference this past year.

The American Law Institute, with which we are in very close touch, has presented no proposed legislation for our consideration this year.

The correspondence which your committee have had indicates that there are a good many associations and organizations interested in this subject but they are usually interested in a particular subject matter. With relation to that particular thing, if we are engaged upon legislation affecting it, we would be able to get their co-operation. There are undoubtedly many other associations than those herein mentioned with which some co-operation might be had if we were advised of the associations and their addresses and the subject matter in which they would be particularly concerned.

The National Conference on Street and Highway Safety, called by Secretary of Commerce Hoover and held in Washington in December, 1924, voted to appoint a Committee on Uniformity of Laws and Regulations Governing the Use of Motor Vehicles and Highways. The Conference of Commissioners was asked to co-operate with this Hoover Conference and the first draft of a Uniform Motor Vehicle Act, prepared by the Conference Committee on a Uniform Act Governing the Use of Highways by Vehicles, a part of the Uniform Public Law Section, was submitted to the Hoover Conference Committee as the basis for their act.

On this Committee of the Hoover Conference, which is made up of men representing various interests, several members of the Conference have been appointed, namely: Nathan William MacChesney, who is Chairman of the Committee, W. H. H. Piatt, Chester I. Long, Gurney E. Newlin and George B. Young, commissioners, and J. Allen Davis of Los Angeles, California, the draftsman of our act. The Hoover Committee has twenty-eight members.

The National Conference on Street and Highway Safety was attended in behalf of the National Conference by our Vice-President, Hon. Joseph F. O'Connell of Boston. That Conference appointed the following committees:

Committee A: Uniformity of Laws and Regulations, the Committee just referred to,

Committee B: Enforcement,

Committee C: Causes of Accidents,

Committee D: Metropolitan Traffic Facilities,

Also a Committee on Steering and Public Relations. Of this latter committee Mr. O'Connell is a member.

The Public Law Section has also taken up, at the suggestion of President Coolidge, communicated through one of the Assistant Secretaries of the Treasury, the question of a uniform state inheritance tax law.

The constitution and by-laws of the American Bar Association are so framed that an act approved by the Conference and recommended to the Bar Association for approval immediately following the Conference at which the act is finally approved cannot be considered by the Bar Association, if objection is made, until the following year, after it has been submitted in writing more than thirty days prior to the meeting of the American Bar Association. This gives a year's delay in securing the approval of our acts by the Bar Association. At the April meeting of the Executive Committee of the Bar Association your Committee recommended a modification of the Bar Association rules so that a report from any of the sections of the Bar Association or from its Committee on Uniform State Laws recommending the approval of legislation can be acted on at the session of the Bar Association at which the recommendation is made. This will tend to expedite the final approval of reports from the Conference to the Bar Association.

I think the only substantial progress that can be shown during the past year as the result of this Committee is that the work of the National Conference has been called to the attention of a good

many associations and their interest sufficiently aroused so that should there come up a matter in which they felt that uniformity of legislation would be desirable they would know of this organization and look to it for assistance in the formulation of a law.

Respectfully submitted,

Ex-officio: NATHAN WILLIAM MACCHESNEY, *President*

GURNEY E. NEWLIN

W. H. WASHINGTON

CHARLES J. MORROW

FRANK E. CURLEY

R. E. L. SANER

GEORGE B. YOUNG, *Chairman*

REPORT OF THE PUBLIC LAW SECTION

To the National Conference of Commissioners on Uniform State Laws:

In the last two reports to the Conference (Hand Book 1923, p. 286, Hand Book 1924, p. 680) it was stated that until the Wolff Packing Company and the Dorchy cases were finally determined by the Supreme Court of the United States it was the opinion of the Committee that the time was not opportune to present a draft of a bill for the consideration of the Conference. The Wolff Packing Company case has been finally disposed of by the Supreme Court of the United States. In 262 U. S. 522, 43 S. Ct. 630, it was decided that the Kansas Industrial Court Act was invalid in so far that it permitted the fixing of wages. On the receipt of the mandate, the Supreme Court of Kansas modified its decree (114 Kans. 487, 227 Pac. 249) but held that the Act was valid so far as it provided for the fixing of hours of labor and working conditions. A second writ of error was taken to the Supreme Court of the United States and that court, on April 13, 1925, reversed the judgment of the Supreme Court of Kansas and held (45 Sup. Ct. Rep. 441), that the Kansas Industrial Court Act declaring the business of manufacturing and preparing food for human consumption was affected with a public interest and which compelled the owner and his employees to continue the business on terms not of their making is violative of the Due Process clause of the 14th Amendment and the provision therein, fixing hours of labor is inseparable from the compulsory administration feature and was therefore invalid.

The effect of these two decisions of the Supreme Court of the United States is to make invalid that part of the Kansas Industrial Court Act which gives the power to that court to fix wages and regulate hours of labor and working conditions in order to prevent a strike by the employees.

The Dorchy case (264 U. S. 286, 44 S. Ct. 323) was again considered by the Supreme Court of Kansas after it was returned to that court by the decision of the Supreme Court of the United

States. The Supreme Court of Kansas in *State vs. Howat, et al.*, (Dorchy, Appellant, 116 Kans. 412, 227 Pac. 752) decided that Section 19 of the Act making it a punishable offense for an officer of a labor union, acting in his official capacity, to call a strike of coal miners whereby operation of a coal mine in the production of coal is suspended, is severable from the provision of the Act giving the court the power to fix wages and regulate hours of labor and working conditions. A writ of error has been taken from this decision to the Supreme Court of the United States and the case is there pending at the present time.

While no other cases involving the Kansas Industrial Court Act are now pending in any court, except the Dorchy case, yet we are of the opinion that until that case is finally determined by the Supreme Court of the United States, a bill should not be presented to the Conference for its consideration.

Respectfully submitted,

CHESTER I. LONG,

Chairman of Public Law Section.

GURNEY E. NEWLIN

HAZEN I. SAWYER

ARTHUR H. RYALL

GEORGE E. BEERS

ALEXANDER ARMSTRONG

W. H. FOLLAND

WILLIAM A. SCHNADER

GEORGE B. YOUNG

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

REPORT OF COMMITTEE ON UNIFORM ACKNOWLEDGMENT ACT

Your committee herewith presents its report with a tentative draft of the act and asks its adoption.

WM. HUNTER, *Chairman.*

1 SECTION 1. *Proof and Acknowledgment within the State.*
2 The proof or acknowledgment of any instrument may be
3 made at any place within this [state], before the Clerk of the
4 Supreme Court or before a Notary Public.

1 SECTION 2. *Proof and acknowledgment within a District,*
2 *County or City.* The proof or acknowledgment of an instru-
3 ment may be made in this [state] within the judicial district or
4 circuit, county or city for which the officer was elected or ap-
5 pointed, before either:

- 6 1. A Judge of the Circuit, District, Municipal, County, or
7 Probate Court.
- 8 2. A clerk of any court having a seal.
- 9 3. A mayor of a city.
- 10 4. A justice of the peace.
- 11 5. A United States court commissioner.

1 SECTION 3. *Within the United States.* The proof or ac-
2 knowledgment of an instrument may be made without the
3 state, but within the United States, and within the jurisdic-
4 tion of the officer, before either:

- 5 1. A Judge or Clerk of any court of record of the United
6 States.
- 7 2. A Judge or Clerk of any court of record of any state or
8 territory.
- 9 3. A Notary Public.
- 10 4. Commissioners appointed for the purpose by the gover-
11 nor of the state.

1 SECTION 4. *Without the United States.* The proof or ac-
2 knowledgment of an instrument may be made without the
3 United States, before either;

4 1. An Ambassador, a United States Minister or Envoy, a
5 United States Commissioner, or Charge d' Affaires of the
6 United States, resident and accredited in the country where
7 the proof or acknowledgment is made;

8 2. A consul, vice consul, or consular agent of the United
9 States, resident in the country where the purchase or ac-
10 knowledgment is made;

11 3. A judge, clerk or commissioner of a court of record of the
12 country where the proof or acknowledgment is made.

13 4. A notary public of such country.

14 5. An officer authorized by the laws of the country where
15 the proof of acknowledgment is taken to take proof or ac-
16 knowledgment; or,

17 6. When any of the officers mentioned in this article are
18 authorized to appoint a deputy, the acknowledgment or proof
19 may be taken before such deputy.

20 All proofs or acknowledgments heretofore taken according
21 to the provisions of this section are hereby declared to be
22 sufficiently authenticated and to be entitled to record, and any
23 such record hereinafter made shall be notice of the contents of
24 the instrument thus recorded.

1 SECTION 5. *Requisites of Acknowledgment.* The acknowl-
2 edgment of an instrument must not be taken unless the officer
3 taking it knows, or has satisfactory evidence, on the oath or
4 affirmation of a credible witness, that the person making such
5 acknowledgment is the individual who is described in and
6 who executed the instrument; or, if executed by a corpora-
7 tion, that the person making such acknowledgment is an
8 officer of the corporation authorized to execute the instrument.

1 SECTION 6. *Conveyance by married woman.* A conveyance
2 or other instrument executed by a married woman has the
3 same affect as if she were unmarried, and may be acknowl-
4 edged in the same manner.

1 SECTION 7. *Forms of Certificates.* An officer taking the
2 acknowledgment of an instrument must endorse thereon or
3 attach thereto a certificate substantially in the forms here-
4 inafter prescribed, to wit:

5 1. Such certificate of acknowledgment, unless it is other-
6 wise in this article provided, must be substantially in the
7 following form:

8 "State of _____

9 County of _____ ss

10 On this _____ day of _____ in the year _____
11 before me [a notary public] personally appeared _____
12 known to me to be the person who is described in and who
13 executed the within instrument and acknowledged to me
14 that he (or they) executed the same.

15 _____
16 [Notary public].

17 2. The certificate of acknowledgment of an instrument
18 executed by a corporation must be substantially in the follow-
19 ing form:

20 "State of _____

21 County of _____ ss

22 On this _____ day of _____ in the year _____
23 before me [a notary public] personally appeared _____
24 known to me to be [the] officer of the corporation described in
25 the within instrument, having authority to execute such in-
26 strument, and acknowledged to me that such corporation
27 executed the same.

28 _____
29 [Notary public].

30 3. The certificate of acknowledgment by an attorney in
31 fact must be substantially in the following form:

32 "State of _____

33 County of _____ ss

34 On the _____ day of _____ in the year _____
35 before me [a notary public] personally appeared _____
36 known to me to be the person who is described in and whose
37 name is subscribed to the within instrument as attorney in
38 fact of _____ and acknowledged to me that he sub-
39 scribed the name of _____ thereto as principal and his
40 own name as attorney in fact.

41 _____
42 [Notary public].

43 4. The certificate of acknowledgment of a sheriff, treasurer,
44 auditor, or any other public official who is required to ac-
45 knowledge instruments shall be in substantially the following
46 form, unless otherwise provided by law:

47 "State of _____

48 County of _____ ss

49 Be it remembered that on this _____ day of _____ in
50 the year _____ before me [a notary public] personally
51 appeared _____ of the County of _____, State of _____
52 known to me to be the person who is described in and who
53 executed the foregoing instrument and acknowledged to me
54 that he executed the same as such _____ for the uses and
55 purposes therein expressed

56

57

[Notary public].

58 5. The certificate of acknowledgment by any deputy
59 sheriff, treasurer, or other deputy of a principal who is author-
60 ized to execute deeds or make acknowledgments to written
61 instruments shall be substantially in the following form:

62 "State of _____

63 County of _____ ss

64 Be it remembered that on this _____ day of _____ in the year _____
65 before me [a notary public] personally appeared _____
66 known to me to be the person who is described in and whose
67 name is subscribed to the within instrument as deputy
68 _____ of said county and acknowledged to me that he
69 subscribed the name of _____ as principal thereto as
70 _____ of said County and his own name as deputy. _____

71

72

[Notary Public].

73 6. Officers taking and certifying acknowledgments or
74 proof of instruments for record, must authenticate their
75 certificates by affixing thereto their signatures followed
76 by the names of their offices; they shall also affix their
77 seal of office, if by the laws of the state, territory or country
78 where the acknowledgment or proof is taken, or by authority
79 under which they are acting, they are required to have
80 official seals. Judges and clerks of courts of record must

81 authenticate their certificates as aforesaid by affixing thereto
82 the seal of the proper court of which they are members.

83 7. The certificate of proof or acknowledgment, if made
84 before a justice of the peace, when used in any county other
85 than that in which he resides, must be accompanied by a
86 certificate under the hand and seal of the clerk of courts
87 of the county in which the justice resides and where the
88 certificate of election or appointment of such justice is filed,
89 setting forth that such justice, at the time of taking such
90 proof or acknowledgment, was authorized to take the same,
91 and that the clerk is acquainted with his handwriting, and
92 believes that the signature to the original certificate is gen-
93 uine.

94 8. Acknowledgments. How Corrected.

95 1. When the acknowledgment or proof of execution of a
96 written instrument is properly made, but defectively certified,
97 any party interested may bring an action in the circuit court
98 to obtain a judgment correcting the certificate. Or the parties,
99 whose acknowledgments were taken may appear before the
100 same official and reacknowledge the instrument and acknowl-
101 edge that they executed the instrument at the time set forth
102 in the former acknowledgment and the same shall be re-
103 certified by the officer and when said acknowledgment is
104 then properly taken, it shall have the same force and effect
105 as if the original acknowledgment and certification thereof
106 was complete and correct.

107 2. Any person interested under an instrument entitled to
108 be proved for record, or any person interested in any right
109 or property involved or affected by said instrument, may
110 institute an action in the court having jurisdiction of said
111 matter, against the proper parties to obtain a judgment
112 proving and establishing said instrument.

113 3. A certified copy of the judgment in a proceeding in-
114 stituted under either of the two preceding subdivisions,
115 showing the proof of the instrument and attached thereto,
116 entitles the instrument to record, with like effect as if the
117 same had been acknowledged.

118 9. Acknowledgments not Affected by this Act. The
119 legality of the execution, acknowledgment, proof, form or
120 record of any conveyance or other instrument made before
121 this act takes effect, executed, acknowledged, proved or
122 recorded, is not affected by anything contained in this act,
123 but depends for its validity and legality, upon the laws
124 in force when the act was performed, except as by other
125 statutes expressly provided.

126 10. Effect of Recorded Instruments. All conveyances
127 of real property made prior to the taking effect of this act,
128 and acknowledged or proved according to the laws in force
129 at the time of such making and acknowledgment or proof,
130 have the same force as evidence, and may be recorded in the
131 same manner, and with like effect, as conveyances executed
132 and acknowledged in pursuance of this act.

133 11. Inconsistent Legislation Repealed. All acts or parts
134 of acts inconsistent with this act are hereby repealed.

135 12. Name of Act. This act may be cited as the Uniform
136 Proof of Acknowledgments Act.

FIRST TENTATIVE DRAFT OF A UNIFORM INHERITANCE TAX LAW

AN ACT

Concerning taxable transfers and to make uniform
the law relating thereto

ARTICLE I

TAXABLE TRANSFERS

SECTION 1. TAX ON TRANSFER OF PROPERTY.—Be it enacted etc.: That a tax is hereby imposed upon the transfer, in trust or otherwise, to any person or persons by a resident or non-resident of this (State) of real property *or tangible personal property* within this (State), or any interest therein, and by a resident of this (State) of any intangible personal property *within or without this (State)* of any interest therein, and by a non-resident of this (State) of *any intangible personal property within the jurisdiction of this (State), or any interest therein in the following cases:*

(a) UNDER WILL OR STATUTE.—When the transfer is under a will or by the statute of descent and distribution [of this State];

(b) IN CONTEMPLATION OF DEATH.—When the transfer is *made* [of personal property made by a resident, or of real estate located within this State made by any person; whether a resident or non-resident] by deed, grant, bargain, sale or gift, made in contemplation of death of the grantor, vendor, or donor, or intended to take effect in possession of enjoyment at or after such death. Every transfer made within (three) years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this [section] *clause.*

(c) JOINT INTERESTS.—Whenever any property, real or personal, is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons, and payable to either, or the survivor, upon the death of one of such per-

sons, the right of the surviving tenant by the entirety, joint tenant, or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer of one-half or other proper fraction thereof taxable under the provisions of this [chapter] act, in the same manner as though this part of the property to which such transfer relates belonged to the tenants by the entirety, joint tenants or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant or joint depositor by will.

(d) BY POWER OF APPOINTMENT.—Whenever any person, *trustee or corporation* shall exercise a power of appointment derived from any disposition of property made, whether before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will. [and] Whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded there to by will of *the* donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

SECTION 2. CONTRACTS IN CONTEMPLATION OF DEATH.—The amount due upon the claim of any creditor against the estate of a deceased person arising upon a contract made after the passage of this act, if payable by the terms of such contract at or after the death of the deceased, shall be subject to the same tax imposed by this act upon a legacy of like amount. The value of legacies or distributive shares in the estates of deceased persons for the purpose of the legacy or succession tax shall not be diminished by reason of any claim against the estate based upon such contract in favor of

the person entitled to such legacies or distributive shares, except insofar as it may be shown affirmatively by competent evidence that such claim was legally due and payable in the lifetime of the decedent. [Payment of the amount so certified shall be a discharge of the tax.]

SECTION 3. INSURANCE.—*When the proceeds of any life insurance policy or contract upon the death of the insured who was domiciled in this (State) at the time of his death, by the terms thereof, by operation of law, or by the will of the insured, inure to the benefit of any person, co-partnership or corporation, other than direct descendants or ascendants or the widow or the husband of the insured, in the nature of a gift, bequest or devise, not based upon valuable consideration passing from said beneficiaries to the insured in this life-time, such insurance shall be a transfer of property subject to taxation under this act.*

SECTION 4. BEQUESTS AND DEVISES TO EXECUTORS AND TRUSTEES.—*When a decedent appoints one or more executors or trustees, and instead of their lawful compensation makes a bequest or devise of property to them which otherwise would be liable to said tax, or appoints them as residuary legatees, and such bequest, devise or residuary legacy exceeds what should be a reasonable compensation for their services, such excess shall be a transfer subject to taxation under this act. The (probate court) in which the proceedings are pending shall fix the compensation of such executors and trustees.*

SECTION 5. RECIPROCITY.—The tax imposed by this [article] act in respect of *intangible* personal property of *non-residents* shall not be payable (a) if the transferor is a resident of a State or territory of the United States, which, at the time of the transfer did not impose a transfer tax or death tax of any character in respect of *intangible* personal property within said State or territory of residents of this (State) or (b) if the laws of the State or territory of residence of the transferor at the time of the transfer contained a reciprocal provision under which non-residents were exempted from transfer taxes or death taxes of every character in respect of *intangible* personal property, provided the State or territory of residence of such non-resident allowed a similar exemption to residents of the State or territory of the residence of such transferor.

SECTION 6. CERTAIN PERSONAL PROPERTY OF NON-RESIDENTS NOT SUBJECT TO TAX.—*The provisions of this act as to the taxation of intangible personal property of non-residents shall not apply to the stock or obligations of a corporation organized under the laws of this (State) and owned by non-residents, if at the time of the death of the owner all the business conducted by the corporation under the authority of its charter (except stockholders' or directors' meetings, and the duties performed by the clerk with reference thereto) is actually carried on outside of the (State); nor to deposits of any bank or trust company of a non-resident decedent within the jurisdiction of this (State) at the time of his death.*

SECTION 7. TAX ON NET VALUE. EXCEPTION. — *Except in the case of the tax on the intangible personal property of a non-resident, the tax so imposed shall be upon the net value of such property passing by any such transfer to each person, co-partnership, association or corporation at rates hereinafter prescribed and only upon the excess of the exemption hereinafter granted to such person, co-partnership, association or corporation.*

The tax on intangible personal property shall be on the actual market value of such property passing by any such transfer to each person, co-partnership or association or corporation at the rate hereinafter prescribed without any exemption or deduction.

All taxes imposed by this act, except as otherwise provided in section twenty-nine of this act, shall accrue and be due and payable at the time of transfer, which is the date of death.

ARTICLE II

RATES OF TAXATION

SECTION 10. CLASSIFICATION OF BENEFICIARIES. RATES. — (a) *The tax upon transfers of property except upon transfers of intangible personal property of non-resident decedents [as above defined] shall be at the following rates:*

CLASS A. *In case the transfer shall be to or for the benefit of a husband, wife, lineal ancestor, lineal descendant, adopted child, [or] the lineal descendant of an adopted child of the deceased, step-child, daughter-in-law, son-in-law, the tax, after deducting the*

exemption hereafter allowed, shall be: On its *net* value not exceeding twenty-five thousand dollars (\$25,000) at X per cent; on the excess of its *net* value over twenty-five thousand dollars (\$25,000) and not exceeding fifty thousand dollars (\$50,000) at 2X per cent; on the excess of its *net* value over fifty thousand dollars (\$50,000) and not exceeding one hundred thousand dollars (\$100,000) at 3X per cent; on the excess of its *net* value over one hundred thousand dollars (\$100,000) and not exceeding five hundred thousand dollars (\$500,000) at 4X per cent; and on the excess of its *net* value over five hundred thousand dollars (\$500,000) at 5X per cent.

CLASS B. In case the transfer shall be to, or for the benefit of, a brother, sister, brother-in-law, sister-in-law, nephew, niece, or lineal descendant, the wife or widow of a nephew, or the husband of a niece, and all *religious, charitable, educational* and State institutions as defined in Section [two Par. 1] *fifteen clause C* within the United States but not within this (State) *after deducting the exemption hereafter allowed*, the tax shall be:

On its *net* value not exceeding twenty-five thousand dollars (\$25,000) at 2X per cent; on the excess of its *net* value over twenty-five thousand dollars (\$25,000) and not exceeding fifty thousand dollars (\$50,000) at 3X per cent; on the excess of its *net* value over fifty thousand dollars (\$50,000) and not exceeding one hundred thousand dollars (\$100,000) at 4X per cent; on the excess of its *net* value over one hundred thousand dollars (\$100,000) and not exceeding five hundred thousand dollars (\$500,000) at 5X per cent; and on the excess of its *net* value over five hundred thousand dollars (\$500,000) at 6X per cent.

CLASS C. In case the transfer shall be to or for the benefit of any person or corporation not exempted by *this act*. [Section two Par. 1] *and not [or]* included in either of the foregoing classes, the tax, *after deducting the exemption hereafter allowed*, shall be:

On its *net* value not exceeding ten thousand dollars (\$10,000) at 5X per cent; on the excess of its *net* value over ten thousand dollars (\$10,000) and not exceeding twenty-five thousand dollars (\$25,000) at 6X per cent; on the excess of its *net* value over twenty-five thousand dollars (\$25,000) and not exceeding fifty thousand dollars (\$50,000) at 7X per cent; on the excess of its *net* value over

fifty thousand dollars (\$50,000) and not exceeding one hundred thousand dollars (\$100,000) at 8X per cent; on the excess of its *net* value over one hundred thousand dollars (\$100,000) and not exceeding five hundred thousand (\$500,000) at 9X per cent; and on the excess of its *net* value over five hundred thousand dollars (\$500,000), at 10X per cent.

(b) *In case the transfer shall be of intangible personal property of a non-resident decedent, the tax shall be at the rate of 2 per centum upon the actual market value of the property transferred without any exemptions or deductions.*

SECTION 10. (Optional section for states where graduated tax not permitted.) *The tax upon transfer of property shall be at the following rates:*

CLASS A. *In case the transfer shall be to or for the benefit of a husband, wife, lineal ancestor, lineal descendant, adopted child, the lineal descendant of an adopted child, step-child, daughter-in-law or son-in-law: On its net value of 2X per cent.*

CLASS B. *In case the transfer shall be to or for the benefit of any other person or corporation: On its net value at 5X per cent.*

ARTICLE III

EXEMPTIONS AND DEDUCTIONS

SECTION 15. EXEMPTIONS.—(a) [But] No property or interest therein which shall be transferred to [husband] wife [or to any other person under twenty-one years of age] [who] which is taxable under the provisions of Class A, shall be subject to such tax except upon its *net* value in excess of [ten thousand dollars (\$10,000)] *thirty-five thousand dollars (\$35,000)*, or to a husband or a child except upon its *net* value in excess of fifteen thousand dollars (\$15,000), or to a brother or sister except upon its *net* value in excess of ten thousand dollars (\$10,000); and no transfer of property or interest therein to other persons or associations, societies, institutions or corporations shall be subject to such tax except upon its *net* value in excess of [five hundred dollars (\$500)] *one thousand dollars (\$1,000)*.

Such exemptions are in each case to be taken out of the first [ten

thousand dollars (\$10,000)] *thirty-five thousand dollars (\$35,000)* of the value of the property or interest transferred.

(b) [A deduction] *An exemption* shall be allowed to persons of Class A for all property transferred by a decedent of Class A to any person of that class, [provided] *if* the same property was transferred within three years to such decedent and a tax paid thereon in this (State). This [deduction] *exemption* shall not exceed the appraised value on which such tax was paid; [providing, however,] *and shall not be allowed unless* such property previously taxed can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise or inheritance, or [which] can be identified as having been acquired in exchange for property so received, *or been purchased or acquired from the proceeds thereof.*

(c) All transfers to educational, religious (or other) institutions, societies, associations or *corporations* whose sole object and purpose is to carry on charitable, educational, or religious work, within the United States, all transfers (for or upon trust) for any charitable purpose in this (State), and all transfers to (cities or towns) or public institutions in this (State) for public purposes, shall be exempt from the tax imposed by [the preceding section] this act. But no such corporation, *institution, society*, or association shall be entitled to such exemption if any officer, member, shareholder, or employee thereof shall receive, or may be lawfully entitled to receive, any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purpose; or if the organization thereof, for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation, *institution, society*, or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

SECTION 16. DEDUCTIONS.—In calculating the *net* value of the distributive share, the following deductions, and no others, shall be allowed:

- (a) Debts of the decedent;
- (b) Taxes accrued and unpaid;

- (c) Death duties paid to foreign countries;
- (d) Estate and inheritance taxes paid to other states *on intangible personal property*;
- (e) Federal estate taxes—in the proportion which the property [assessed] *taxed* in this (State) bears to the total taxable property of the estate. All assessments used in calculation to be those agreed to by the (Tax Commission) of this (State);
- (f) Drainage, street and other special assessments which are a lien on said property;
- (g) Funeral and burial expenses, and all amounts actually expended not exceeding the sum of five hundred dollars (\$500) for monuments;
- (h) Commissions of executors and administrators actually allowed and paid;
- (i) Costs of administration, including reasonable attorneys' fees.

ARTICLE IV

ADMINISTRATION. APPRAISEMENT.

SECTION 20. SUPERVISION OF (STATE TAX COMMISSION.)—The (State Tax Commission) shall have complete supervision of the enforcement [and collection] of all the provisions of [the Inheritance Tax Act] *this act and the collection of taxes thereunder* and shall [make] *adopt* rules and regulations for the just administration thereof. (It) may employ such [attorneys] examiners and special agents as may be *deemed* necessary for the reasonable carrying out of its full intent and purpose. Such [attorneys] examiners and special agents shall visit the several counties of the (State) and see that all statements required by this act are filed with the (clerks of the proper court) by executors and administrators, or by beneficiaries under wills where no executor is appointed; examine into all statements filed by such executors, administrators and *beneficiaries*; and require such executors, administrators and *beneficiaries* to furnish any additional information that may be deemed necessary to determine the amount of tax that should be paid. [by such estate] *The Attorney General shall act as the legal adviser for the*

(State Tax Commission) in all matters arising under the provisions of this act.

SECTION 21. FORMS.—(The State Tax Commission) shall prepare and furnish, upon application, blank forms covering such information as may be necessary to determine the amount of [inheritance] tax due the (State) on the transfer of property subject to the tax.

SECTION 22. APPOINTMENT OF APPRAISERS. COMPENSATION.—The (State Tax Commission) shall appoint, and may at its pleasure remove one or more persons in each county of the (State) to act as inheritance tax appraisers therein.

Whenever, because of the complicated nature of an estate the interests of the (State) shall require the appointment of a person possessed of expert or technical knowledge to ascertain the value thereof, the (State Tax Commission) may appoint an expert appraiser. Any such expert appraiser may be appointed after the appointment of another appraiser.

Every such inheritance tax appraiser and expert appraiser shall be paid for his services [out of any inheritance tax moneys in the hands of the treasurer of the county in which he may be acting] a reasonable commission to be fixed by the (Superior Court of the county or a judge thereof). Said appraisers shall be allowed their actual travelling and other necessary expenses and the fees paid such witnesses as they shall subpoena before them, said expenses and fees to be allowed by (said Superior Court or a judge thereof).

The compensation and expenses of appraisers and witness fees shall be paid from appropriations made from time to time to the (State Tax Commission).

SECTION 23. POWERS AND DUTIES OF APPRAISERS. PENALTY.—It shall be the duty of the (State Tax Commission) upon its own motion or upon the application of any person interested to order the person or one of the persons appointed inheritance tax appraiser in any county to appraise the property of any person whose estate shall be subject to the tax imposed by this act.

Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised,

including the (Tax Commission) of the time and place when he will appraise such property.

The appraiser shall at such time appraise the property of the estate at its fair market value, and for that purpose he is authorized to issue subpoenas and to compel the attendance of witnesses and to take the evidence of such witnesses under oath concerning such property and the value thereof.

The appraiser shall make a report in duplicate and sign the same, one of which duplicates shall be filed with the (clerk of the probate court) and the other in the office of the (State Tax Commission).

Any appraiser or expert appraiser who shall take any fee or reward other than such as may be allowed him by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred and fifty dollars (\$250) or more than five hundred dollars (\$500), or be imprisoned in the county jail not exceeding ninety days, or both, and shall be dismissed from service.

SECTION 24. REPORTS AS TO REAL ESTATE.—If real estate of a decedent so passes to another person or corporation as to become subject to said tax, his executor, administrator or trustee shall inform the (Tax Commission) and the appraiser for inheritance tax purposes thereof within six months after his appointment; or if the fact is not known to him within that time, then within one month after the fact becomes known to him.

SECTION 25. METHOD OF VALUATION OF FUTURE AND LIMITED ESTATES.—The value of every future, contingent or limited estate, income or interest, shall, for the purpose of taxation under this act, be determined by the rule, methods and standards of mortality and value that are set forth in the actuaries combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interest and contingencies shall be five (5) per centum.

SECTION 26. VALUATION OF FUTURE AND LIMITED ESTATES.—The (Insurance Commissioner) shall, without a fee, on the application [of any Superior Court or] of any inheritance tax appraiser determine the value of any future, contingent or limited estate, income

or interest therein, limited, contingent, dependent or determinable upon the life or lives of persons in being *or an estate for years* upon the facts contained in any appraiser's application or other facts to him, submitted by such appraiser [or said court] and certify the same in duplicate to said [court or] appraiser, and his certificate thereof shall be competent evidence that the method of computation therein is correct.

The value of every future estate shall be ascertained by deducting the value of the life estate or estate for years from the appraised market value of the property.

SECTION 27. VALUATION OF CERTAIN ANNUITIES AND LIMITED ESTATES.—When any annuity or life estate *or estate for years* is terminated by the death of the annuitant, life tenant *or tenant for years*, and the tax upon such interest has not been fixed and determined, the value of said interest for the purpose of taxation under this act shall be that amount of the annuity or income actually paid or payable to the annuitant, life tenant *or tenant for years*, during the period for such annuitant or tenant was entitled to the annuity or was in possession of the [life] estate.

SECTION 28. TAXATION ON ESTATES CAPABLE OF BEING DIVESTED.—Where an estate or interest can be divested by the act or omission of the legatee of devisee, it shall be taxed as if there were no possibility of divesting.

SECTION 29. CONTINGENT AND DEFEASIBLE ESTATES.—Estates in expectancy which are contingent or defeasible and in which [the] proceedings for the determination of the tax have not been taken, or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation thereof made of the particular estates, for the purpose of taxation, upon which said estates in expectancy may have been limited.

SECTION 30. REPORTS BY (clerks OF PROBATE COURTS).—The (clerk of the probate court) shall, within thirty days after it is filed, send to the (Tax Commission) by mail, one copy of every statement filed by executors and administrators, a copy of every will

admitted to probate and a copy of the inventory and appraisal of every estate, and shall in like manner send a copy of every account of an executor or administrator, but the (Tax Commission) shall have power to make rules or orders dispensing with these requirements in case it is manifest that no tax will be payable under the terms of this act. The (*clerk* of the probate court) shall also furnish copies of papers and such information as to the records and files in his office as the (Tax Commission) may require. The fees for copies furnished under the provisions of this section shall be ten cents per hundred words, and shall be charged against the estate as other fees allowed by the (probate court).

SECTION 31. [If not satisfied, after investigation with the valuations returned by the executor or administrator *in any estate*, any examiner or special agent shall make an additional appraisal, or may recommend the appointment by the (Commission) of a special appraiser who in such case shall be paid five dollars per day and expenses for his services.]

[SECTION 32. The administrator or executor, if not satisfied with such additional appraisal, may appeal within thirty days to the (State Tax Commission), which appeal shall be heard and determined as other cases. From this decision or any other decision after an appeal to the (State Tax Commission), the executor or administrator, or any interested person, shall have the right of appeal to (any court of probate jurisdiction) of the county in which said estate is situated for the purpose of having said issue tried, provided, that the said tax shall first be paid; and if it shall be determined upon trial that said tax or any part thereof was illegal or excessive, the amount of the tax so adjudged overpaid or declared invalid shall, with six per centum interest, be refunded by the State Treasurer.]

SECTION 33. PENALTY.—Every person who wilfully and knowingly subscribes or makes any false statement of facts, or knowingly subscribes or exhibits any false paper or false report with intent to deceive any appraiser appointed pursuant to the provisions of this act, shall be guilty of a misdemeanor and [punished accordingly], *upon conviction thereof shall be sentenced to pay a fine not exceeding . . . dollars, or undergo imprisonment in the county jail for a period not exceeding . . . , or both.*

ARTICLE V
ASSESSMENT, COLLECTION AND
PAYMENT OF TAX

SECTION 40. *Assessment of Tax.* [It] *The (State Tax Commission)* shall determine from the appraisement made in any estate the full and fair cash net value of [such] the property transferred, and shall have [full] authority to do all things necessary to secure full and final settlement of all such inheritance taxes due or to become due. All taxes imposed by this act shall be assessed by the (State Tax Commission), [upon the full and fair cash net value of the property transferred] at rates hereinbefore set out, [to] and shall be paid to the State Treasurer (for the use of the (state)).

[Fifty per centum of the taxes collected from each estate shall be for the use of the (state), and the remaining fifty per centum of said taxes shall be paid by the state treasurer to the treasurer of the county, where the estate was settled, for the use of the county.]

SECTION 41. *Notice.* Notice of the amount of said taxes shall be mailed to the executor, administrator, trustee, or other person liable therefor by said (Commission), and, upon request, to any other person by whom said taxes are payable. But failure to receive said notice shall not excuse the non-payment of, or invalidate, said taxes, or any interest due thereon.

SECTION 42. *Lien of Taxes.* [Said] *The taxes imposed by this act* shall be and remain a lien upon the property transferred, and upon all property acquired by the executor or administrator or trustee [in substitution therefor while the same remains in his hands] until the said taxes are paid or a bond given as hereinafter provided; but said lien shall not affect any tangible or intangible personal property after it has passed to a bona fide purchaser for value. The lien charged [as aforesaid] upon real [estate] *property* [or separate parcel thereof] may be discharged by the payment of all taxes due upon said real [estate] *property* [or separate parcel] or by the filing and acceptance of a bond as provided in this act, or by an order of the (State Tax Commission) transferring such lien to other real [estate] *property* owned by the person to whom said real [estate] *property* [or separate parcel thereof] passes.

When a conveyance made by a decedent in his lifetime is subject to [said] *the tax imposed by this act*, and the property thus conveyed, being personal property, is without the (State), or is removed from the (State) before the tax is paid, such tax shall become a lien upon all the property of the decedent, and shall be chargeable as an expense of administration, [and] The Executor or administrator shall collect taxes due on account of such conveyances and may be authorized to sell any property subject to the lien of such tax, for the payment thereof as in other cases.

SECTION 43. *Liability for Taxes.* Executors, administrators, and trustees, and all beneficiaries of such taxable transfers, shall be liable for [such] *the taxes imposed by this act* with interest [as herein-after provided] until the same have been paid. [Provided, however] *But in no case shall any such executor, administrator or trustee be liable for a greater sum than passes through his administration; and no beneficiary shall be liable for a greater sum than actually comes into his beneficial possession or enjoyment. No beneficiary who renounces his right to any legacy or distributive share shall be held liable for the payment of the tax.*

SECTION 44. *Tax on Legacy Charged on Realty.* If a legacy subject to said tax is charged upon or payable out of real [estate] *property*, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee in the same manner as the payment of the legacy itself could be enforced.

SECTION 45. *Delivery of Property on which Tax Due. Sale of Property for Taxes.* An executor, administrator or trustee holding property or *specific legacy* subject to said [property] *tax* shall not deliver *said* property or [a specific] legacy [subject to said tax] until he has collected the tax thereon.

When a *distributive share* or a specific bequest of personal property other than money is subject to a tax the provisions of this act, and the [legatee] *beneficiary* neglects or refuses to pay the tax on demand, the executor, administrator or trustee may [upon such notice as the probate court may direct be authorized to] sell such property, or, if the same can be divided, such portion thereof as may be necessary and shall deduct the tax from the proceeds of

such sale, and shall account to the [legatee] *beneficiary* for the balance.

An executor or administrator shall collect tax due upon [land] *real property* which is subject to tax under the provisions of this act, from the heirs or devisees thereto, and he may sell said [land] *real property* if they refuse or neglect to pay said tax. [The heir, devisee or other donee shall be personally liable for the tax on real property as well as the executor, administrator or trustee, and If the executor pays the tax on *real property* he shall, unless the same is made an expense of administration by the will or other instrument; have the right to recover such tax from the heir, devisee or other donee of such estate.]

Any executor, administrator or trustee shall have power to sell so much of the property, real or personal, of the decedent, as will enable him to pay such tax, in the same manner as he might be entitled by law to do for the payment of the debts of the decedent.

SECTION 46. *Collection of Tax Upon, or Sale of, Property Passing to Several Beneficiaries.* When any interest in property, less than estate in fee, is devised or bequeathed to one or more beneficiaries with remainder to others, and the interest of one or more beneficiaries is subject to said tax, the executor shall deduct the tax upon such taxable interests from the whole property thus devised or bequeathed; and whenever property other than money is so devised or bequeathed, he may, unless the taxes upon all the taxable interests are paid when due by the beneficiary, [be authorized to] sell such property or such portion thereof as may be necessary [as provided in Section 5 and 8] *as hereinbefore provided*; and having deducted the unpaid taxes on such taxable interests from the proceeds of such sale, he shall account for the balance in lieu of the property sold as in other cases.

SECTION 47. *Interests of Each Person in Estate to be Treated as a Single Interest.* All property and interests therein which shall pass from a decedent to the same beneficiary by any one or more methods hereinbefore specified, and all beneficial interests which shall accrue in the manner hereinbefore provided to such beneficiary on account of the death of such decedent, shall be united and treated as a single interest for the purpose of determining the tax thereunder.

SECTION 48. *Appeals.* Any executor, administrator, trustee or beneficiary not satisfied with the appraisal or settlement of the tax in any estate may appeal therefrom to the (probate court) of the county in which the estate was settled within (sixty) days after settlement of the tax, upon paying or giving security to pay all costs, together with whatever tax shall be fixed by the court. Upon any such APPEAL, the court may determine all questions of valuation and of the liability for the tax. From any decision of the probate court the (state) or any executor, administrator, trustee or beneficiary may appeal to the (proper appellate) court.

SECTION 49. *Discount. Interest.* All taxes imposed by this act shall be due and payable at the death of the [testator, intestate, grantor, donor or vendor] *decedent*, and if the same are paid within six months from the date of the death of the [testator, intestate, grantor, donor or vendor] *decedent*, a discount of (three) per centum shall be allowed and deducted; if not paid within one year from the death of the [testator, intestate, grantor, donor or vendor] *decedent*, such tax shall bear interest at the rate of six per centum per annum, to be computed from the expiration of one year from the date of the death of such [testator, intestate, grantor, donor or vendor] *decedent* for a period of one year, and ten per centum per annum thereafter until the same is paid.

SECTION 50. *Remission of Interest.* The [penalty] *interest* of ten per centum hereinbefore imposed [may] *shall* be remitted to [simple] interest at the rate of six per centum by the (State tax commission) in case of unavoidable delay in settlement of the estate or of pending litigation. And the (State Tax Commission) [is further authorized] *shall* in case of protracted litigation, or other delay in settlement not attributable to laches of the party liable for the tax, [to] remit all or any portion of the interest charges accruing under this [schedule] *act* with respect to so much of the estate as was involved in such litigation or other unavoidable cause of delay; [Provided that] the time for payment [and collection] of such tax *without interest* may be extended by the (State Tax Commission) for good reason shown.

SECTION 51. *Payment in Instalments, where Tax Due on Real Property.* — Where the property consists of real [estate] *property* or

any interest therein or income therefrom, the taxes thereon may, in the discretion of the (State tax commission), (with the consent of the Attorney General and State Treasurer), be paid in four equal annual instalments, the first instalment being payable within a year of decedent's death and the remaining instalments being payable at the expiration of the second, third and fourth years succeeding decedent's death, such instalments, after the first, bearing interest at the rate of six per centum per annum, said interest to be paid on each respective instalment at the time the same becomes due and payable.

SECTION 52. *Advance Payment, and Refund of Excess.* —*In the case of any estate from [whom] which any such tax is or may be due, the executor, administrator, or trustee or any beneficiary may make an estimate agreeable to the (State Tax Commission), and pay the same to the (State Treasurer), who shall receipt therefor at any time before the same is determined, and shall thereupon be entitled to any discount, and be relieved from any interest or penalty on the amount of the tax so paid; and shall have permits issued for the transfer of securities or real [estate] property upon the amount so paid in the same manner as if the tax were then determined. Any excess tax so paid shall be refunded to the person so paying or entitled thereto by such (treasurer) out of any inheritance tax money in his possession, upon filing with such (treasurer) a copy of the order fixing such tax, and attached thereto a certificate stating the amount of refund due. All such refunds shall be paid from appropriations made from time to time to the (State Treasurer) for such purposes.*

SECTION 53. *Composition of the Tax.* The (Tax Commission) by and with the consent of the (Attorney General) (?) expressed in writing, is hereby empowered and authorized to enter into an agreement with the *executors, administrators or trustees* of any estate in which remainders or expectant estates have been of such a nature, or so disposed and circumstanced, that the taxes thereon were held not presently payable, or where the interests of the legatees or devisees were not ascertainable, and to compound such taxes upon such terms as may be deemed equitable and expedient and to grant discharge to said *executors, administrators or trustees* upon the payment of the taxes provided for in such composition.

No such composition shall be conclusive in favor of said executors, administrators, or trustees as against the interest of such cestius que trust as may possess either present rights of enjoyment, or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto, either personally, when competent, or by guardian or committee. Composition or settlement made or effected under the provisions of this section shall be executed in triplicate, and one copy filed in the office of the tax commission, one copy in the office of the clerk of the (probate court), and one copy delivered to the executors, administrators or trustees who shall be parties thereto.

SECTION 54. *Bond for Payment of Tax on Estates not in possession. Any executor, administrator or trustee, or any beneficiary may elect, within one year from the date of the transfer of the property on account of which a tax is due, not to pay the tax until the person or persons beneficially interested therein shall come in the actual beneficial possession or enjoyment thereof. The person or persons so electing shall give bond to the (state) in a penalty of (three) times the amount of such tax, with such sureties as the (probate court) of the proper county may approve, conditioned for the payment of such tax and interest therein, at such time or period as the person or persons beneficially interested therein may come into the actual beneficial possession or enjoyment of such property. Such bond shall be filed with the (State Tax Commission) within one year of the transfer, and must be renewed every five years.*

SECTION 55. *Proof of Payment of Tax to be Produced by Personal Representative. No final account of an executor, administrator or trustee shall be allowed by the (Probate Court) unless such account shows, and the judge of said court finds, that all taxes imposed by this act, upon any property or interest therein belonging to the estate, to be settled by said account and already payable, have been paid; or that the payment thereof to the (State) is secured by a bond as provided in this act, or by a lien on real estate where payments are to be made in instalments. The certificate of this (Commission) and the State Treasurer's receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax to the extent of said certification.*

SECTION 55 (a). *Application or refund of Erroneous Payment.* In all cases where any amount of such tax is paid erroneously, the (State Treasurer), on satisfactory proof rendered to him by the (State tax commission), may refund and pay over to the person paying such tax, the amount erroneously paid. All such applications for the repayment shall be made within two years from the date of the payment, except when the estate upon which such tax has been erroneously paid shall have consisted, in whole or in part, of a partnership or other interest of uncertain value, or shall have been involved in litigation by reason whereof there shall have been an over-valuation of that portion of the estate on which the tax has been assessed and paid, which over-valuation could not have been ascertained within said period of two years; in such cases the application for repayment shall be made to the (State Treasurer) within one year from the termination of such litigation or ascertainment of such over-valuation. All such refunds shall be paid from an appropriation made from time to time to the (State Treasurer) for such purposes.

SECTION 56. *Records Kept by (Tax Commission). Secrecy of Records.*—The (Tax Commission of this State) shall keep a record of all returns made by appraisers, the cash value of annuities, life estates and terms of years, and the amount of all taxes assessed by them; and, in addition, the said (Commission) may enter into said books all other information and data which they may deem desirable or proper. All returns made by appraisers and all data otherwise gathered by the (Tax Commission) shall be considered as privileged communications, and the same shall not be exhibited for inspection to any person or persons other than the executor or the administrator of a beneficiary entitled under the terms of the last will and testament or the intestate law to share in the estate, or the duly authorized attorney of said executor, administrator, or beneficiary. Nothing in this section shall be construed as prohibiting the use of such returns made by appraisers and all data otherwise gathered by the (Commission) in legal proceedings involving the assessment, collection or abatement of taxes provided for by the various inheritance taxes statutes prevailing in this (State).

[These certificates shall be presented to the (Tax Commission), who shall issue permits to transfer securities and give clear title to real (estate) *property*.]

ARTICLE VI

PROVISIONS RELATING TO NON-RESIDENTS

SECTION 60. Tax on real [Estate] *Property* of Non-Residents. Procedure when no Administration in this (State). Ancillary Administration. In the absence of administration in this (State) upon the estate of a non-resident, the (State Tax Commission) may, at the request of an executor or administrator duly appointed and qualified in the state of the decedent's domicile, or of a grantee under a conveyance made during the grantor's life-time, and upon satisfactory evidence furnished him by such executor, administrator or grantee, or otherwise determine whether or not real [estate] *property* of said decedent within this (State) is subject to tax under the provisions of this act, and if so, may determine the amount of such tax and adjust the same with such executor, administrator, or grantee, and for that purpose may appoint *or designate* an appraiser to appraise said property, [and the expense of such appraisal shall be a charge upon said real (estate) *property* in addition to the tax.] The [treasurer's] (State Tax Commission's) certificate as to the amount of such tax, and [his] *the State Treasurer's* receipt for the amount therein certified, may be filed in the (probate) office in the county where the real [estate] *property* is located, and when so filed shall be conclusive evidence of the payment of the tax to the extent of such certification. Whenever, in such a case, the tax is not adjusted within four months after the death of the decedent, the proper (probate) court, upon application of the [State Treasurer] *State Tax Commission* shall appoint an administrator in this (State). *If the tax on such real property is not paid by the person or persons liable therefor, the administrator may sell the same in the manner hereinbefore provided, and shall deduct the tax from the proceeds of such sale and account for the balance in lieu of the property.*

SECTION 61. *Transfer of Non-Resident Property.*—No stock or obligation of any national bank located in this (State), or of any corporation organized under the laws of this (State), [deposit in any bank, trust company or other similar institution located in this (State), or organized under its laws], obligation of any citizen of this (State), or securities or personal property of any description within the jurisdiction of the (State) or any interest therein, be-

longing to the estate of a non-resident, shall be transferred, paid or delivered to any person except an executor, administrator or trustee of the estate of said deceased, duly appointed either in this (State) or in the state of the decedent's domicile by a court having jurisdiction for that purpose.

SECTION 62. Liability for Transfer. Such *personal* property shall not be transferred, paid or delivered to a foreign executor, administrator, or trustee until the tax has been paid. Any person or corporation which shall transfer, pay or deliver, or, having control thereof, shall permit the transfer, payment or delivery of any such property to any person other than a resident executor, administrator, or trustee before such tax has been paid, shall be liable for the tax, and to an additional penalty of not more than one thousand dollars in an action brought by the [State Treasurer] (*State Tax Commission*). Any such bank or corporation which shall record such transfer of any share of its stock or of its obligations, or issue a new certificate of stock or other instrument to evidence such transfer, before all taxes imposed upon the transfer by this act have been paid, shall be subject to the same liability and penalty.

SECTION 62 (a). [Executors, administrators, and trustees shall be liable for such tax upon all such property which shall come to their hands, with interest as hereinafter provided.]

SECTION 63. Duty of Depositary. Every person having in his possession or control any personal property belonging to a non-resident, shall, unless the property is delivered to a resident administrator, *executor or trustee*, within thirty days after the death of the owner, notify the [State Treasurer] (*State Tax Commission*) and prepare and transmit to [him] *it* an itemized schedule of the property. If the tax is not paid, or a resident administrator, *executor or trustee is not* appointed within four months after the owner's death, the (probate court) shall, upon petition of the [State Treasurer] (*State Tax Commission*) appoint a resident administrator or special administrator, as the circumstances of the case may require to whom the property shall be transferred, whose duty it shall be to collect and pay the tax, and to account for the balance of the property according to law under order of court.

[SECTION 63 (a). Interest on Deferred Payments. All taxes imposed by this act shall be due and payable at the time of the

transfer of the property, and if not then paid, interest at the rate of ten per centum per annum shall be charged and collected from the time of the transfer, and said taxes and interest shall be and remain a lien on the property transferred until the same are paid: Provided, however, that if the transfer is not made within fifteen months after the owner's death, interest as aforesaid shall be charged and collected after the expiration of said fifteen months.]

[SECTION 63 (b). Personal Property within the jurisdiction of this (State) belonging to non-residents, which shall pass by deed, grant, bargain, sale or gift made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor, or donor, shall be subject to the same tax imposed upon the transfers hereinbefore described in this act. The taxes upon such transfers shall become due at once upon the death of the grantor or donor, and if not paid within fifteen months, shall be subject to interest as aforesaid after the expiration of said period until paid. Said taxes and interest shall be a charge against the persons receiving such transfer, and the property transferred, and any other property of the grantor or donor within the jurisdiction of the (State) shall be subject to a lien to secure its payment. All persons or corporations within the jurisdiction of the (State) in whose possession or control any such property so transferred or to be transferred remains at the time of the death of the grantor or donor, shall be subject to all the tax, liabilities and penalties imposed by this act upon persons having the possession or control of personal estate of such decedent.]

SECTION 64. Assessment of Tax. The [State Treasurer] (*State Tax Commission*) shall determine the amount of all taxes due and payable [under the provisions of this act] *on the personal property of non-residents*, and shall certify the amount due and payable to the resident executor, administrator, or trustee, if any, otherwise to the person or persons by whom the tax is payable. *For the purpose of determining the amount of such tax the (State Tax Commission) may appoint or designate an appraiser to appraise such personal property in the manner hereinbefore provided.* [Said tax shall be assessed upon the actual market value of the property transferred at the time of the decedent's death. Such tax shall be determined

by the (State Treasurer), who shall certify the same to the person or persons by whom the tax is payable, and such] The determination of the *State Tax Commission* shall be final, unless the tax shall be reduced upon appeal *in the manner hereinbefore provided*, [or petition for abatement in proceedings commenced by a resident executor, administrator, or trustee, in the form and within the time prescribed in cases arising under Chapter forty of the Laws of one thousand nine hundred and five, as set forth in sections twelve and fourteen of said act and the amendments thereto.]

SECTION 65. Collection of the Tax. A resident executor, administrator or trustee holding personal property of a deceased non-resident subject to said tax shall deduct the tax therefrom, or collect it from the executor, administrator, or trustee in the state of the decedent's domicile, and shall not deliver such property to him or any person until he has collected the tax. When the transfer of such personal property, other than money, is subject to a tax under the provisions of this act, and the executor, administrator or trustee in the state of domicile neglects or refuses to pay the tax upon demand, or if, for any reason, the tax is not paid within four months after the decedent's death, the resident administrator, executor or trustee may, [upon such notice as the (probate court) may direct, be authorized to] sell such property, *in the manner hereinbefore provided*, or if the same can be divided, such portion thereof as may be necessary, and shall deduct the tax from the proceeds of such sale, and shall account for the balance, if any, in lieu of the property. When a conveyance made by a non-resident decedent in his lifetime is subject to said tax, the resident executor or administrator shall collect the taxes due on account of such conveyance, and may be authorized to sell any property subject to the lien of such tax, as in other cases.

SECTION 66. Enforcement. The [State Treasurer] (State Tax Commission) whenever [he] *it* has knowledge or reason to believe that any person or corporation has in his possession or control any personal property belonging to the estate of a deceased non-resident upon which the tax has not been paid and a schedule of which has not been furnished [him] *it*, [as herein provided], or that any such person or corporation has received a transfer of such property, or

made such transfer, (except to a resident executor, administrator or trustee), upon which the tax has not been paid as herein provided, [or that such person or corporation has knowledge of a transfer of such personal property of such non-resident decedent in his life-time by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor], or has possession or control of property so transferred, may require such person or any officer of such corporation to appear at the [State Treasury] *State Tax Commission* at such time as the [Treasurer] *Commission* may designate, and then and there to produce for the use of the [Treasurer] *Commission* all books, papers or securities which may be in the possession or control of such person or corporation relating to such property or transfer, and to furnish such other information relating to the same as he may be able, and the [Treasurer] *Commission* may require. When the [Treasurer] *Commission* shall require the attendance of any person as herein provided, [he] it shall issue a notice stating the time when such attendance is required, and shall transmit the same by registered mail, or cause a copy of the same to be given in hand to such person fourteen days at least before the date when such person is required to appear. If any person receiving such notice shall neglect to attend or to give attendance so long as may be necessary, for the purpose for which the notice was issued, or refuse to furnish such books or papers, or give such information, or if a corporation whose officer is thus summoned refuses to permit him to produce such books, papers or securities as called for and are within the control of the corporation, such person or corporation shall be liable to a penalty of twenty-five dollars for each offense, which may be recovered by the [State Treasurer] *Commission* for the use of the (State). Any person attending in response to summons as herein provided, shall thereafter be entitled to the same travel and witness fees as are allowed to witnesses summoned to testify in actions in the (Superior Court). The [State Treasurer] *State Tax Commission* may commence any action for the recovery of any taxes at any time after the same become payable.

ARTICLE VII

SAFE DEPOSIT BOXES

SECTION 70. Tax of Safe Deposit Companies, Trust Companies, Banks, Corporations, Et Cetera. No safe deposit company, trust company, corporation, bank or other institution, person or persons, engaged in the business of renting safe deposit boxes or other receptacles of similar character, shall rent any such box or receptacle without first requiring all persons, given access thereto, to agree in writing to notify such safe depositary, bailee, or lessor, from whom such box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person. [and] All persons having the right of access to any such safe deposit box or receptacle, upon the death of any other person having access thereto, before seeking access to such box or receptacle, must notify such safe depositary, bailee or lessor from whom such box or receptacle is rented, of the death of such person. [and]

It shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or persons, having in its possession or under its control, custody or partial custody, any safe deposit box or similar receptacle, to permit access thereto by any one after the death of any person who at the time of his death had the right or privilege of access thereto, either as principal, deputy, agent or co-tenant, without the consent of the (State Tax Commission), or a person by it authorized to issue such consent.

No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets, or property belonging to or standing in the name of a decedent who was a resident or non-resident, or belonging to or standing in the joint names of such a decedent, and one or more persons, including the shares of the capital stock of, or interest in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators,

[for legal representatives], agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent, or to any other person or persons, or other survivor or survivors when held in the joint names of decedent, and one or more persons, or upon their order or request, without retaining a sufficient portion of the amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act, and unless notice of the time and place of such delivery or transfer be served upon the (State Tax Commission) at least thirty days prior to said delivery or transfer. [provided, that] *But* The (State Tax Commission), or a person by them in writing authorized to do so, may consent in writing to said delivery or transfer, and such consent shall relieve such safe deposit company, trust company, corporation, bank or other institution, person or persons, from the obligation hereunder to give such notice or to retain any portion of said securities, proceeds or other assets in their possession or control. [And] It shall be lawful for the (State Tax Commission) [or County Treasurer] personally or by representatives, to examine same securities, deposits or assets at the time of said delivery, or otherwise.

SECTION 71. Penalties. Failure to comply with the provisions of this [section] *Article* shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes and interest [and penalties] due under this act on said securities, deposits, or other assets, and the said penalties and liabilities of said safe deposit company, corporation, bank, or other institution, person or persons for the violation of this [section] *Article* may be enforced in an action brought by the (State Tax Commission) in any court of competent jurisdiction.

ARTICLE VIII

ACTIONS TO QUIET TITLE

SECTION 80. ACTIONS TO QUIET TITLE.—Actions may be brought against the (State) by any interested person for the purpose of

quieting the title to any property against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this (State) wherein the taxability of such transfer and the liability therefor, and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto, and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the (State) in said action shall be commenced in the (Superior Court) of the county in which is situated any part of any real property against which any lien is sought to be enforced or to which title is sought to be quieted against any lien or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the (Superior Court) of the county, which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

SUBSTITUTE PROVISIONS FOR LOCAL ADMINISTRATION

Section 20, line 2 strike out the word "complete" and insert the word "general."

SECTION 22. The (Clerk of the Probate Court) in the county in which letters testamentary are granted upon the estate of any person dying seized or possessed of property while a resident of this Commonwealth, taxable under this act, shall appoint an appraiser, whenever occasion may require, to appraise the value of the property of which such decedent died seized or possessed.

Whenever, because of the complicated nature of an estate the interests of the (State) shall require the appointment of a person possessed of expert or technical knowledge to ascertain the value thereof, the (Clerk of the Probate Court) with the approval of the (State Tax Commission) may appoint an expert appraiser. Any such expert appraiser may be appointed after the appointment of another appraiser.

Add paragraphs (3) and (4).

SECTION 23. Omit paragraph (1).

SECTION 40. Paragraph 1, change "State Tax Commission" to "Clerk of the Probate Court." Change "State Treasurer" to "Clerk of the Probate Court."

Add to section the following paragraph:

The (Clerk of the Probate Court) shall enter in a book to be provided at the expense of the State, which shall be a public record, the returns made by all appraisers appointed by him under the provisions of this act, opening an account in favor of the Commonwealth against each decedent's estate. The (Clerk of the Probate Court) shall transmit to the State Tax Commission on the first day of each month a statement of all returns made by appraisers during the preceding month, upon which the taxes have been paid or remain unpaid.

SECTION 41. Change "commission" to "Clerk of the Probate Court."

SECTION 48. Permit State to appeal from appraisalment.

SECTION 52. Change "Tax Commission" and "State Treasurer" to "Clerk of the Probate Court" in first sentence.

SECTION 55. Last sentence change "State Treasurer's receipt" to "Tax Commission's receipt."

SECTION 56. Insert a clause requiring the commission to keep an account with each clerk.

SECTION 00. Any executor, administrator, trustee or other person on the payment of said tax shall take a duplicate receipt from the (Clerk of the Probate Court) which shall be forwarded forthwith to the (State Tax Commission) who shall charge the clerk receiving the money with the amount and seal and countersign the original receipt and transmit it to the person paying the tax; whereupon it shall be a proper voucher in the settlement of the estate.

SECTION 00. The (Clerks of the Probate Court), upon their filing with the (State Tax Commission) the bond hereinafter required, shall be the agents of the (State) for the collection of said tax in the case of resident decedents. For services rendered in collecting and paying over the same, they shall be allowed to retain for their own use upon the gross amount collected during any year,

five per centum if such tax amount to a sum of fifty thousand dollars or less, three per centum on the amounts collected in excess of fifty thousand dollars and not exceeding one hundred thousand dollars, one per centum on the amounts collected in excess of one hundred thousand dollars and not exceeding two hundred thousand dollars, one-half of one per centum on the amounts collected in excess of two hundred thousand dollars and not exceeding one million dollars, and one-fourth of one per centum on the amounts collected in excess of one million dollars.

SECTION 00. Each (Clerk of the Probate Court) shall give bond to the (State) in such penal sum as the (Probate Court) may direct, with two or more sufficient sureties, for the faithful performance of the duties hereby imposed, and for the regular accounting and paying over of the amounts to be collected and received. This bond, when executed and approved, shall be forwarded to the (State Tax Commission). Until such bond is given, the taxes under this act shall be collected by the county treasurer. In such cases all the provisions of this act relating to the (Clerk of the Probate Court) shall apply to the county treasurer.

SECTION 00. Each (Clerk of the Probate Court) shall, on the first Monday of each month, make return and payment to the (State Tax Commission), of all taxes received and collected by him under this act stating the estate from which collected. On all taxes collected by him and not paid over within one month after the same are paid he shall pay interest at the rate of twelve per centum per annum until paid.

REPORT OF COMMITTEE ON UNIFORM MECHANICS' LIEN LAW

*To the National Conference of Commissioners on Uniform State
Laws:*

The undersigned committee on a Uniform Mechanics' Lien Law was appointed early in the year by the President of the Conference, following a request made to him in January, by the Secretary of Commerce of the United States for cooperation in an undertaking then begun by the Department of Commerce in the preparation of a so-called "Uniform Standard State Mechanics' Lien Act." In this connection a conference was had by the President of the Conference, the chairman of this committee, and Dr. John M. Gries, Chief of the Division of Building and Housing of the Department of Commerce, at which the President of the Conference outlined to Dr. Gries the history of this Conference and its facilities in the drafting of uniform state laws. It was then agreed and has been subsequently agreed by Dr. Gries and the committee of the Department of Commerce hereafter mentioned that the work should be carried on in close cooperation with this Conference.

Following the appointment of Dr. Gries referred to and the appointment shortly thereafter of the undersigned committee the Committee of the Department of Commerce was organized at the conference of the latter on February 6, 1925. There were present then in addition to Dr. Gries and the chairman of this committee, Mr. William F. Chew, Baltimore, Md., President of the National Association of Builders' Exchanges, Mr. William B. King, Washington, D. C., Counsel of the National Association of Builders' Exchanges, Mr. Victor Mindeleff, of Washington, D. C., of the American Institute of Architects, and Mr. Frank Day Smith of Detroit, Michigan, representing the National Retail Lumber Dealers' Association. After Dr. Gries had outlined the manner in which various organizations had brought to the attention of the Department of Commerce the need of the study of a uniform mechanics' lien law, it was decided that the committee thus met and designated by Secretary Hoover should take up actively the consideration of the subject and meet from time to time for a discussion of the subject and the drafting of the uniform state law in connection therewith.

The chairman of this committee emphasized at the meeting the points made in the conference with Dr. Gries before mentioned and as a result the following resolution was adopted:

"That it is the purpose of the Committee, before making a final draft of a Standard State Mechanics' Lien Law, to secure the advice and cooperation of national and other organizations interested in the subjects. Particularly it is the purpose to act in concert with the National Conference of Commissioners on Uniform State Laws and to secure ultimate agreement with the Conference in the final draft of such Standard Law."

As it seemed possible to the Committee of the Department of Commerce that a tentative law could be formulated for the discussion of its details at the session of this Conference in Detroit in August, 1925, this committee brought the subject to the attention of the Executive Committee of this Conference at the meeting of the latter committee in Chicago February 26 and 27, 1925. The Executive Committee passed a resolution which will be reported to the forth-coming Conference recommending for this particular subject a priority in the program of the Detroit meeting. In view of subsequent developments, however, it now appears that the subject will not reach a stage where it is ready for discussion by the full Conference for the reason that the preliminary work of collating materials has consumed more time than had been anticipated.

The work of collating materials has been carried on by Mr. Dan H. Wheeler, an official of the Department of Commerce, and secretary to the committee of that department. There was first secured and presented for discussion among the members of the committee of the Department of Commerce a copy of the lien law of the State of New York. Mr. Wheeler then prepared in connection with each section of that law an analysis of the law of each state of the Union, and later distributed among the members of the committee of the Department a book containing all of this information. Thus when the committee of the Department met again on June 12, 1925, it had before it in a state of completion for reference practically the entire local mechanics' lien laws of all the states. In addition to the members of the committee named in connection with the February meeting there met at the Department of Commerce on the latter date Mr. Emil Hoen, representing the Maryland Casualty Company which does a large business in

underwriting of builders' contracts. The various sections of the lien law of the State of New York were discussed in the light of materials displayed in the compilation of other local laws and summaries prepared by Mr. Wheeler. Full discussion in reference to each topic was had and records of the discussions prepared and distributed among the conferees. It was decided, however, that it was not practicable to attempt to furnish the undersigned committee a draft for presentation to this Conference at the coming session. Provision has been made for subsequent meetings of the Department Committee at the Department of Commerce, and it is hoped that something in the way of a tentative draft can be completed by the first of the year so that the same may be submitted to the undersigned committee, considered by it as a whole at its meeting early in the year, and thus be presented after the full consideration of the undersigned committee at the next annual session of this Conference in 1926.

This undertaking by the Department of Commerce is similar to the others it has been engaged in before, e. g. the consideration of a Uniform State Highways' Law. There will doubtless be from time to time similar undertakings by the Department of Commerce. It seems to this committee important that these projects so undertaken by the Federal Government, through the Department of Commerce, or otherwise, should be in cooperation with the National Conference of Commissioners on Uniform State Laws. It seems to this committee that this Conference should reveal in this particular undertaking a willingness to lend its aid so that it may receive, on its part, the practical assistance represented by the research work that has been detailed above and may, on its part, give the benefits of an experience of forty years in the drafting of uniform state laws.

In view of this situation this committee respectfully recommends to this Conference as follows:

1. That this committee or a similar committee be retained to give further consideration to the subject of a uniform mechanics' lien law, and to work so far as is possible in cooperation with the existing committee on the same subject in the Department of Commerce.

2. That this committee or a similar committee be authorized to prepare a tentative draft of a uniform mechanics' lien law, taking into consideration so far as it seems best to the committee the results of the work of the committee of the Department of Commerce, and report said tentative draft for the consideration of this Conference at its meeting in 1926.

3. That this committee be granted such an appropriation by the Conference as may enable the members of the committee to carry out the program mentioned.

CHARLES V. IMLAY, *Chairman*

F. M. CLEVINGER

WALTER E. COE

FRANK H. NORCROSS

HENRY U. SIMS

Ex-officio:

NATHAN WILLIAM MACCHESNEY, *President*

REPORT OF SPECIAL COMMITTEE ON NOMINATIONS,
PERMANENT HEADQUARTERS, AND EXECUTIVE
SECRETARY

*To the National Conference of Commissioners on Uniform State
Laws:*

As already pointed out in President MacChesney's annual address, he appointed our committee some time ago to undertake a three-fold task—To nominate candidates for the usual offices; to consider the advisability of establishing permanent headquarters for the Conference; and to consider the desirability of creating the office of Executive Secretary.

First. We would respectfully place in nomination the following named gentlemen to serve as officers for the ensuing year:

For President: Hon. George B. Young, Montpelier, Vermont.

For Vice-President: Hon. Jefferson P. Chandler, Los Angeles, California.

For Secretary: Hon. George G. Bogert, Ithaca, New York.

For Treasurer: Hon. W. O. Hart, New Orleans, La.

During the several weeks which have elapsed since our appointment, we have considered and investigated carefully the other two questions which were submitted to us. This has been done by extended correspondence and by repeated personal interviews.

Second. Upon the question of permanent headquarters for the Conference, our opinion is unanimous in approving this idea. We have reached this conclusion because we believe it will increase the efficiency of the work of the Conference. That work has now become so widely known and so varied, the reports, records and files of the conference have become so numerous, that, in our judgment, it is necessary to fix upon some central and permanent place in which this mass of valuable material may be stored, and to which the general public and the members of the Conference can become accustomed to turn for ready reference and assistance. We are credibly informed that it may be quite possible to establish such headquarters at the University of Chicago Law School. But

we are most fortunate in being able to report that the Northwestern University Law School, also located at Chicago, has already definitely and most generously offered to provide headquarters for the Conference, without expense, this next year, in its present building in the down town loop of Chicago, and further, to make permanent and free provision for such headquarters in its magnificent law school building, adjacent to the famous Gary Law Library, which is now in process of construction on the Lake Shore, about a mile from the City and which will be completed and ready for occupancy next year. We find a report, however, that it is expected that the American Bar Association, at its annual meeting here next week, may have under consideration the question of likewise establishing permanent headquarters in Chicago. Now since the Conference is a vital branch of the Bar Association, and since our co-operation is always essential, we deem it wise to refrain from making any specific recommendation at this time respecting present permanent headquarters but to leave with the Executive Committee—where it properly belongs—the duty to await the action of the Bar Association and to determine just when and where the needs of the Conference will be served best by establishing permanent headquarters.

Third. As to the advisability of creating the office of Executive Secretary, our committee takes the view that we do not see the actual necessity for taking such action just at this time. We are reliably informed, however, that this necessity is quite likely to arise during the coming winter and before the next meeting of the Conference. We are unanimous in our approval of amending the by-laws so that this office may be brought into existence whenever the Executive Committee should deem it wise. But the desirability for an Executive Secretary is so closely related to the desirability for permanent headquarters that, in our judgment, it would be well not to have an Executive Secretary until the question of permanent headquarters has first been determined. In this connection, we desire to report that we have canvassed carefully the duties which now devolve upon the office of Secretary. We find they have increased to such proportions as to require almost daily service throughout the year, and at many times to the entire exclusion of any other business. In our opinion,

the office of Secretary is one of prime importance. The character of the work of this office may either make or mar the success of the Conference. In our opinion, it is unfair to expect any Secretary to perform his onerous task unless more adequate appropriation is set aside for his office than has been the custom heretofore. This Conference, under its By-Laws, already has the power to make an allowance by way of compensation and expenses to the office of Secretary. Heretofore, an allowance for actual expenses only has been made. In our opinion, the time has come when the Conference should make some further and additional allowance.

Therefore, in closing, we would recommend as follows: That the Conference authorize the Executive Committee (a) to determine when and where the Conference shall have permanent headquarters; (b) when it shall have an Executive Secretary; and (c) what further reasonable allowance should be made to the office of Secretary.

Respectfully submitted,

GEORGE M. HOGAN, *Chairman*

C. R. HOLLINGSWORTH

HAZEN I. SAWYER

F. M. CLEVINGER

WADE MILLIS

Dated, Detroit, Michigan,
August, 27, 1925.

RESOLUTIONS REGARDING LAW RELATING TO OIL DEVELOPMENT

WHEREAS, At the present time an unfortunate condition exists in the development of the oil and natural gas resources of the United States, in that there is great useless expense in the drilling of many times as many wells as are necessary to secure the oil and gas, and in that by such multiplication of wells the gas pressure in the oil pools is unnecessarily reduced, so that a large percent of the oil remains in the ground and cannot be secured, which could otherwise be obtained, and in that new oil fields when discovered are developed as rapidly as possible, without regard to the law of supply and demand, or the state of market, instead of being developed in an orderly manner and as the market requires, whereby the exhaustion of our oil resources is threatened in the not far distant future; and

WHEREAS, A fundamental cause of this waste and irrational development is to be found in the law relating to gas and oil, which gives the owner of the surface the right to all oil and gas which he can secure from wells on his land, so that each owner is obliged to sink as many wells as possible and exhaust the oil as soon as possible, before the neighboring owners get all the oil and gas from the single pool underlying the land of all, regardless of the expense of drilling, of the demand for oil, and of the fact that thereby gas pressures in the pool are reduced and much oil will be lost and have to remain in the ground; and

WHEREAS, It would appear that this defect in the law could be cured by providing for the development of any one oil pool for the benefit of all the owners, as by Act providing for a trusteeship or receivership of the pool and its development under the control of the trustee or receiver (analogous to the administration of a limited fund for the benefit of all by a trustee in bankruptcy), with the fewest necessary wells, regulating the production according to the market, and securing the maximum amount of oil available, and distributing the proceeds equitably among all the owners of the surface, regardless of the ownership of the particular

tracts of land where the wells were drilled, with proper bonuses to the discoverer of oil to encourage prospecting, and with revisions from time to time of the description of boundaries of the pool and of who are to share in the proceeds, as on development the true location of the pool is more accurately determined, and

WHEREAS, Such an act for developing oil fields for the common benefit would produce great savings as follows:

(a) Reduce greatly the cost of securing the oil, in some cases to one-tenth of the present cost.

(b) Insure a more regular supply of oil with steadier, and on the average lower, prices to the consumer and better returns to the producer, eliminating storage cost and greatly extending the life of the oil fields.

(c) Permit a larger amount of oil to be taken from the field, in some cases, increasing the total yield of oil by 25% or 50%; such savings amounting in all to many billions of dollars, and increasing greatly the total amount of oil produced and postponing for many years and possibly for decades, the exhaustion of oil resources in this country; and

WHEREAS, Some twenty states have natural resources of oil or gas, and not only these States, but also the interests distributing oil, the automobile industry and the millions of users of automobiles in the country, are all interested in steadier prices for oil, and cheaper production, and in the conservation of the oil resources, so that as much oil may be secured from the ground as possible, and the oil may last as long as possible; and great public interests are involved;

Be it Resolved, by the National Conference of Commissions on Uniform State Laws, that it recommend to the Executive Committee, that it consider the matter of this Conference framing a Uniform Act for Oil and Gas Development along the lines above indicated, arranging for any necessary Committee to take up the subject.

RESOLUTIONS OF THANKS

WHEREAS, In this State of courtesy and culture, and, in this City of progress and prosperity, where (through its motto) "Life is Worth Living," this Conference, its members and ladies, each and all, have received in extraordinary degree, the open-hearted and freely extended hospitality, attention and courtesies of this State, this City and the citizens thereof,

THEREFORE, be it resolved that this Conference, and all its members, herewith express their gratitude and appreciation,

To the City of Detroit, for its ever active attitude of hospitality, courtesy and service;

To the Detroit Bar Association, to its officers, and particularly, to Mr. Wade Millis, one of its members, chairman of the Committee on Arrangements, and a member of this Conference, and to the Michigan State Bar Association, and Lawyers' Club of Detroit, for their unceasing and tireless efforts and attention, to make, as they have made, the Meeting of this Conference, and its members here, not only instructive and pleasant, but memorable;

To the various clubs, and other organizations, for their courtesies to every member of this Conference;

To the newspapers of this City, to their editorial and reportorial staffs, to the Associated Press, the United Press and the International News Service, for the continuous attention and devotion of their news columns and news distributing agencies, to the purposes, objects and proceedings of this Conference;

To the University of Michigan, its officers and faculty, and to the Washtenaw County Bar Association for the enjoyment and instruction received in that wonderful pilgrimage made to Ann Arbor, August 30th, where mind and body were feasted, and withal exalted, with things of man and of law, the highest;

To Hotel Statler, and its force, for courtesies extended in committee rooms, assembly room, service and attention to the Conference and to its members.

Resolved, That this Conference express its deep sense of appreciation to the American Bar Association for its support and assistance in the work of the Conference and to the members of this Conference who have expressed a desire to aid and assist in the establishment of an endowment fund for carrying on the purposes and work of this body.

Resolved, That the National Conference of Commissioners on Uniform State Laws appreciate the substantial assistance extended by

Secretary Hoover, of the Department of Commerce.

United States Chamber of Commerce.

National Conference on Street and Highway Safety.

Bureau of Legal Medicine and Legislation of American Medical Association.

United States Revolver Association.

National Association of Railway and Utility Commissioners.

Investment Bankers' Association.

National Association of Securities Commissioners.

and all other persons, associations and organizations during the past year in the drafting of certain Uniform State Laws, now under consideration by the Conference, and will at all times in the future appreciate such assistance and their co-operation.

Resolved, That the National Conference of Commissioners on Uniform State Laws appeals to all organizations and associations interested in the principle of uniformity of legislation by the States to support and promote its work by public endorsement thereof and by co-operating with the Commissioners to the Conference in their task of securing the enactment by the legislatures of the Uniform Acts adopted by the Conference.

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